

**HIGHLAND PARK PLANNING BOARD  
MINUTES  
March 10, 2022 @ 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 Chairperson Rebecca Hand at 7:30 pm. Annual Notice of this meeting was provided to the Star Ledger on January 29, 2022 and to the Home News Tribune on January 29, 2022. 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 March 8, 2022, and was posted on the Borough website at [www.hpboro.com](http://www.hpboro.com) and on the bulletin board and doors at Borough Hall, 221 So. Fifth Avenue, Highland Park, NJ on March 8, 2022, and has remained continuously posted as required by law.

**Roll Call:**

Present	Rebecca Hand, Scott Brescher, Alvin Chin, Khahlidra Hadhazy, Matthew Hale, Paul Lanaris, Padraic Millet, Jeffrey Perlman, Daniel Stern Cardinale, Allan Williams
Absent	Bruce Koch, Engineer
<u>Board Professionals</u>	Roger Thomas, Esq, Chris Cosenza, Planner

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

Ms. Hand noted that the board has two action items to address. They are both consistency reviews of proposed amendments to the town's ordinances. These amendments are presented and established by town council and then those amendments are sent to the board so that we may review them to advise whether we feel they are consistent or rather not inconsistent with the town's master plan. For those who want to refer to the master plan for reference you can find it on the town's website at [www.hpboro.com](http://www.hpboro.com), go to the government tab and a subheading called planning and zoning board with a link to the master plan. If you click on that link it takes you straight to the master plan and its re-examination reports and land use elements, which are the portions you may hear us referring to and that is what we are using to evaluate the proposed changes to the ordinances.

Consistency Review - Automotive Service & Repair Garages in Commercial Zone

Ms. Hand noted that we've been presented with the proposed amendments to the ordinance with a memorandum from Mason, Griffin and Pearson, Attorneys for the Borough Council to give us a little bit of background about the proposed changes. She opened the discussion for the board members to ask questions or make comments.

Attorney Thomas noted that this is a consistency review. The statute under 26a makes it clear that the sole and only function that this board has with regard to these and any other ordinances that are referred to you by the governing body is to determine whether or not you find that they are consistent or alternatively, that they are not inconsistent with the master plan. It is also important to understand that what you are being asked to do is to review the ordinance before you and not the prior ordinance, not the future ordinance, and not any other ordinance, but just the two ordinances that are currently before you. I wanted to make it clear what the limitations are of this board in terms of its jurisdiction and for this consistency review for the automotive service and repair garage ordinance as well as for the amendments to the cannabis ordinance.

Mr. Chin commented that he noticed one of the changes in section 231.41d mentions changes to the business and he wasn't sure what constituted a change to the business. He asked if they are talking about a proposal to add a structure or are they talking about a change in the ownership or all of the above. Planner Cosenza noted that as of right now, the automotive service and repair garages and gas stations are

considered conditional uses in the C zone, which is basically the north Raritan Avenue and Woodbridge Avenue corridors. As of right now, any significant change to a property, including an addition, even if it's conforming, would have to go to the Planning Board as a conditional use. None of the existing garages are conforming, so they'll automatically go the Zoning Board which is sort of counter intuitive since I think we all agree that the repair shops do play a role in defining the characteristics of Woodbridge Avenue. The purpose of this is to sort of reclassify them instead of a conditional use, the existing ones are now considered existing permitted principal uses. What that means is that the existing shops can now continue with the permitted use. Any new ones are still treated as a conditional use and still have a very high bar to meet in order to comply, in addition to site plan. Relative to changes to the business, these are things like seeking to change signage, change the parking lot, repave or a small addition or a large addition. We just want to use that catch-all statement just in case to eliminate any misconceptions with regard to interpretation. In this case, a change in business would also include a request for the business to sell vehicles. Any change of business shall require zoning permit only or in the case of an addition, it'll trigger site plan.

Ms. Hand noted that the other big point she sees changed here in the proposed language is those businesses can now sell up to four vehicles, but they are strictly limited in how they can display those advertisements for sale so as not to interfere with traffic or create any large, loud signage that may be distracting to drivers. Based on the memo, these changes were proposed mostly at the behest of those existing garages. She would be shocked to learn that those garages were not already selling cars that they've had and prepared. It's nice to codify and make everything legal.

Mr. Williams commented about the use of the word "accepted" in the ordinance. Attorney Thomas clarified that the paragraph in question refers to existing automobile service and repair garages being accepted and deemed to be able to continue as a permitted use. He is comfortable with the language as is. If the board felt strongly about changing it, he does not think that the change would require a reintroduction of the ordinance, it would be a ministerial clarification, not a substantive change, but it can be left as is.

Mr. Perlman noted that his question relates to the provision about the placement of the vehicles up to six feet off the property line and not affecting vehicle circulation. He requested that the Council consider including language to make sure pedestrian traffic and pedestrian flows are not interrupted by the placement of those cars for sale. Some of the sidewalks along upper Raritan Avenue and Woodbridge Avenue are not particularly well delineated and their curb cuts are pretty wide. Attorney Thomas noted that you could argue that the word traffic is not necessarily limited to vehicular traffic. The term traffic circulation would include both pedestrian as well as vehicular traffic.

Mr. Cardinale asked for clarification of the terminology "up to four vehicles can be displayed for sale or lease". He asked does that mean it's a maximum of four vehicles total or only four can be in the front and there can be more not facing the road. Attorney Thomas noted that he believes the intent is that it's a maximum of four for sale or lease period.

Mr. Williams commented about four cars being in the front, but a lot of those places have cars waiting to be serviced or fixed on the lot also. Planner Cosenza explained that this is to allow for vehicles to be serviced as they typically are today, but also allow for four vehicles to be displayed for sale. As the language indicates, it must not interfere with traffic circulation. Part of the provision says that if you do want to display cars for sale you have to set it back six feet and buffer it so it's part of that whole idea of trying to improve the streetscape as well as incentivizing the property in exchange for having permission to sell a couple of cars a year.

Ms. Hand opened the meeting for public comment. There being no comments, Ms. Hand closed public comments.

Ms. Hand noted that based on the Board's comments, it sounds like there are two ad ministerial recommendations to send back to Council for clarification purposes. Section 1d2 should be changed to from accepted to exempt and that in section 2 to clarify that traffic is both pedestrian and vehicular traffic.

It was MOVED by MILLET and seconded by HADHAZY that this ordinance is not inconsistent with the Master Plan and provide ad ministerial comments back to the Council.

ROLL CALL: Ayes – Brescher, Chin, Hadhazy, Hale, Lanaris, Millet, Perlman, Stern Cardinale, Williams, Hand.

Nays – None

There being ten (10) ayes and no nays, motion passed.

Attorney Thomas suggested that rather than doing a resolution, he would draft a letter outlining the determination that this is not inconsistent with the master plan and also to suggest the two modifications that are not substantive.

#### Consistency Review – Amendment to Cannabis Ordinance

Ms. Hand reminded the Board that they heard the original version of this ordinance back on July 8, 2021 and the Board did find that that version of the ordinance was not inconsistent with the master plan at that time. What's before us are some proposed changes from the Council that they would like to make to that already established ordinance. Our review for whether those changes will mean that the ordinance remains not inconsistent with the master plan or has lost consistency or needs to be wordsmithed again, depending on how this board views it after we hear everything.

Attorney Thomas noted that this is a review of ordinance 22-2044 involving the modifications that this ordinance is proposing. It is not a review of the prior ordinance which is referenced in the memo by Mason, Griffin, and Pearson.

Planner Cosenza noted that he'll focus on the land development ordinance chapter 230 and then he'll defer to Councilman Hale regarding all other matters. The main focus of the Planning Board is to focus on the land development ordinance changes. What was presented to the board from the borough council was a suggested change to the land development ordinance to take the permitted uses in the central business district, Raritan Avenue as well as a commercial zone, Upper Raritan Avenue and Woodbridge Avenue, that were already adopted as permitted uses, medical cannabis dispensaries to the class five cannabis retailers and class six cannabis delivery services and split them into two groups. The first #10 in the CBD zone would be just medical cannabis dispensaries and group class 5 and class 6 uses into a separate category. That's the only changes in central business district and in the commercial zone. All it is doing is taking a group of three uses and splitting them up into 2: one for the medical use and the other two for the cannabis uses. Nothing is changing from a land use perspective

Ms. Hand asked for information about the motive behind the split. Councilman Hale noted that in the original state regulations with the cannabis regulatory commission, medical dispensaries were not particularly laid out in terms of how they fit within the new recreational cannabis law. They weren't included in the original ordinance and wasn't discussed. They are a distinct and separate category of cannabis uses. The medical dispensaries are currently legal and currently up and running and have a regulatory process. The recreational is currently going through the state process for defining what those regulations will be. We wanted to make sure that we weren't limited within the same sort of number that we have of six and that we weren't limited only to retail that if there was someone who wanted to have a

medical dispensary in town that would be an option that would be a possibility. It's possible that those may be first given that the medical dispensaries are already regulated. There's also additional tax ramifications that are included in this to make sure that the same sort of taxing structure for retail is also applicable to medical dispensaries. We wanted to be able to have both a retail and a medical dispensary in town.

Ms. Hand noted that as part of the modifications that we're going from six overall class five retailers to five class five cannabis retailers and one medical cannabis dispensary. She asked if there is a reason behind that enumeration. Councilman Hale noted that it's a thought of what the particular demand might be, but there's no rationale for that. We wanted the option to have both.

Ms. Hadhazy asked if the number could change or is it a hard and fast number. Councilman Hale noted that in the original ordinance and in this ordinance it is still six total spaces for licenses for recreational and for medical. Ms. Hadhazy asked what the process is for deciding who gets granted those very lucrative licenses. Councilman Hale noted that a part of this ordinance outlines an administrative process for choosing those licenses. Rather than having a licensing process where it's first come, first serve, the Borough Council and Administration has decided to do a modified RFP, request for licenses. We will have a criteria and then we'll have a time period by which people can apply and then those will be reviewed based on a set of criteria, graded, ranked and then the top six will receive the licenses. The idea is to get as many people into the pool as possible and then be able to have a criteria to pick the ones that are the best fits for Highland Park. Ms. Hadhazy asked if the Borough Council is formulating a committee specifically for choosing who these candidates would be. Councilman Hale noted that this will be an administrative function that will be done by staff. The goal of that is to attempt to take any sort of political machinations out of it. It is a staff decision or a staff recommendation based on a set of criteria. Ms. Hadhazy asked if they would be including anyone on that committee that has experience with cannabis retail businesses or medical dispensaries. Councilman Hale noted that it is possible, but the focus on this is to try and have an objective administrative criteria based on the articulated things that we've decided are important in this. We don't have the specific makeup of that, but the goal articulated by Council is that this is an administrative process based on a set of criteria.

Ms. Hand noted that it does follow the question that one of the changes to the ordinance appears to be deleting seven paragraphs of applicant qualifications that was objective quality criteria. She asked what the thought process was. Councilman Hale commented that one of the things that has happened since the original ordinance was passed is that the cannabis regulatory commission at the state level has significantly improved what their requirements are and what they expect in order for licensing. We've seen that they've defined that in many specific ways, so the language that we took out of the ordinance is because those decisions/criteria are part of the state licensing. No one in Highland Park is going to have a license in Highland Park without meeting the state criteria and the state criteria is quite rigorous. Many of the things that we have taken out of our ordinance are things that the State of New Jersey has in their regulatory process so that someone who has applied for a state license will have to meet in order to get the state license and therefore in order to get the Highland Park license. Ms. Hand noted that there is still a reference in Section D to application being reviewed by the Borough Administrator or his/her designee and scored based upon the evaluation criteria listed in the application package, but we don't have a copy of the application package or what those criteria might be. Councilman Hale indicated that they are working on an application package that the Borough Council will approve through the administrative process.

Mr. Millet commented that he thinks there's a bit of confusion with the delivery services and the unlimited number of licenses. It's legal for anybody to deliver in the state from a licensed dispensary. He wondered what the restrictions would be if someone was trying to set up a delivery business. Councilman Hale noted that delivery businesses are a class of license that will be state regulated as part of their getting a license to be a delivery business. They will go through the rigorous process of how they will do things like how they

will handle product, where product would be stored, etc. There is strict advertising regulations and where the product can be stored and there are also security needs as part of the application. The delivery business part of itself is most likely going to be an office building with a computer and telephones where they'll be dispatching people to pick up from a retail outlet to take to a home. The delivery businesses are all for personal and home use. They're not for delivering large amounts of product from a wholesaler or a distributor to a retail outlet. That's a separate class of licenses that we have not allowed in Highland Park. It is possible that someone could try and have a fleet of cars that they would dispatch from a centralized location, but that would be subject to existing zoning and existing regulations. We did not set a limit on those delivery businesses because the delivery businesses might just be office space and it didn't seem reasonable to set a number of restrictions on those. Mr. Stern Cardinale clarified that there's product stored somewhere that's different from the businesses that we're talking about potentially being in Highland Park. Councilman Hale noted that the state regulations require that someone will go and pick up the product at a retail outlet, put it in their car, and drive it to somebody's house and then they will go to another retail outlet to pick up something and deliver it. Mr. Stern Cardinale asked if the number of locations that could potentially be the pickup sites for this type of thing, that's limited in the other part of the ordinance in class five in terms of numbers. Mr. Millet clarified that a delivery license doesn't allow you to store marijuana even temporarily or cannabis anywhere in your office. Councilman Hale noted that in order for someone to get a license from the state for a delivery business, they will have to explain exactly what their delivery process is. We don't expect that there is going to be a storage facility at these delivery businesses and we don't expect that there is going to be a large amount of product at these delivery businesses. What we would expect is that there would be computers and telephones.

Mr. Chin commented that despite what we've said about class six delivery services not having product would it be possible for a class five license holder to also hold a class six license simultaneously. Councilman Hale stated not immediately. The regulations say that a retail outlet cannot have a delivery business for a period of one year. They may apply for a delivery business after a year of retail sales. The retail businesses are separate from the delivery businesses. No matter how many delivery services we have in Highland Park, there would still only be five or six places actually storing the product. It is our interpretation of what the state regulations are saying that the delivery businesses are point to point and that there isn't a storage capacity. He believes that it is possible that someone could make an argument to the state for a license where they would do that, but he doesn't know how the state would review that.

Mr. Williams asked if a delivery service in Edison could deliver in Highland Park. Councilman Hale states yes. No municipality can stop a delivery service from coming to them no matter where it starts. Planner Cosenza noted that in addition to the state requirements and the application process in Highland Park, the class six licensees or applicants are also going through that process as well. There is a Highland Park administrative review for these as well and it's similar to class five. Ms. Hand noted that class six will be treated the same way that but we're not sure what that administrative packet looks like just yet. The intent is not to codify those terms in the statute but to leave it as an administrative evaluation. She asked if there was concern by Council about claims of favoritism or discrimination. Councilman Hale noted that the protections that we would have on that is that the administrative requirements and the packet requirements of what is required for someone to get a license are essentially administrative laws. The intent is that the packet is the guiding principle document that determines who gets the licenses.

Ms. Hadhazy commented that because we're limiting the number of licenses, she thought that there would be an element to the selection process that also takes into consideration the applicant's ability to successfully run a business. Because you're limiting this to such a small number of licenses and having licenses fall into the hands of people who on paper look great but in reality are not great business owners seems like the waste of an opportunity for someone who may not look as great on paper but would be better at running that business and if that is a component in the decision making process. Councilman Hale stated

that the financial requirements, the history requirements, and the proof that you have the capacity to do this are all things that are components within the state requirement. Licenses are year to year. If there is someone who looks great on paper and is bad in the marketplace they may not survive the year and then there would be a license available. The requirements for business capacity are part of the state process. They have to show certain financial benchmarks and experience benchmarks as part of the state process. Ms. Hadhazy asked if the Borough will be maintaining a wait list for people who were totally qualified but didn't make it on the first round. Councilman Hale noted that we have not discussed that but he would imagine that they would certainly create a list of people who have expressed interest and have that list on file should openings happen.

Ms. Hand opened the meeting for public comment. She asked that people keep their remarks to five minutes so that we have the opportunity to hear from as many members of the public as possible. If you have been heard once and wish to be heard again, we ask that you wait until other members of the public have had the opportunity. Attorney Thomas noted that in terms of the board's involvement, it would be helpful for the board to listen to the comments rather than interacting with members of the public. It would be appropriate to have the members of the public make their comments and at the end, the board members can then make whatever final comments they may have in regard to the ordinance taking into account what was said by the public.

David Evans, Attorney, 203 Main Street, Flemington, NJ, commented that 150 people voiced their written objection to having marijuana facilities in Highland Park. Many of those people have now retained him to represent their interests. Before the board votes on this he'd like them to consider something. Marijuana and the way that it's been set up under the ballot initiative is illegal under federal law. Everybody that's involved in that business in New Jersey is a criminal under federal law. They will have a right to sue the businesses and perhaps bring in town officials under the federal racketeering law because marijuana sales, distribution and growing are considered racketeering under federal law. He sued the Governor, the legislature and the Attorney General over the ballot initiative. Unfortunately, the people got to him too late and the court said that we had to have done it within 45 days. The good news is the court said that we had standing to sue and we're looking for a town to make an example of in the next lawsuit and you are a prime candidate for it. He suggested that before they go ahead with this that they consider the legal materials that he will send to them or to their counsel about violations of federal law and also the information he will send on what kind of impact this is going to have in your town. You are right near Rutgers University and you are going to become a drug center and it is going to lower the quality of life in your town. He will also send a study from Columbia University showing that marijuana stores in towns lower property values which would be the basis for litigation against you. The marijuana of today is far different from the pot he smoked back in the 60's in college. It is very high potency and causes mental illness, it causes addiction, and it causes accidents. He will submit a document with the most recent scientific evidence on all those claims that he has made. He begged them not to bring this into their town. It is going to create a cancer in your town and you're going to regret it in years to come. Think of the children in your schools. They are now going to have access to more marijuana. He will also submit a document from states that have regulated marijuana showing that it's almost impossible to regulate there. It involves getting heavy metals in the plant, contamination with pesticides and the growing creates a very bad smell. He asked them to hold off until they consider the information he is going to send to them and at least acknowledge the concerns of 150 people in Highland Park

Karen Ebbel Avery, 402 Graham Street, commented that she is a pediatrician in Highland Park. She has two objections to the ordinance being proposed this evening. She listened to the most recent council meeting where it was stated by Council and the Council Attorney that the delivery services would be dispatch and storage. When asked about security it was stated that they would have security and that storage would be allowed. The unlimited delivery licenses could have the potential for unlimited storage in

Highland Park which is not consistent and not acceptable to many residents, not is it consistent with the master plan goals which are stated clearly on your website. She referenced two of them. The goals from the 2003 master plan have been re-adopted and they are to preserve and enhance the character and small-town feel of the community to promote a high quality of life for all residents, did not not think high was meant to be marijuana infused. She spoke to a highly regarded security officer that works in town and who is previously a drug and narcotics officer in the Newark community. He stated that the introduction of marijuana from his experience would lower the quality of life, increase crime and that you would see an influx of illegal marijuana in our town. She asked the Planning Board to please consider that the proposed ordinances are not consistent with the master plan goals.

Mary Botteon, 709 Madison Avenue, acknowledged Dr. Avery's comments about lack of consistency with the master plan on anything related to the cannabis ordinance. The board members have received materials from her on this in the past detailing the environmental issues, the property issues and a complete set of information which she hoped that they received. One of the things she sent earlier today were several examples of materials sent to the Borough Council that she requested be sent to the board. She thinks that is a real lack of proper process that needs to be addressed. These decisions should be put on hold. The ordinance that was crafted by Council that they sent to you for your consistency review previously, that issue of the class six is where there is a lot of misunderstanding. They have specifically continued to give false information about class six saying that towns cannot restrict the operation of cannabis delivery services in the municipality. They have also said you cannot permit, you cannot regulate the number of class six cannabis delivery service offices within the borough. That is blatantly false and this is the false information that they have been telling the public and the Planning Board for months beginning with the cannabis forum on June 29<sup>th</sup>. This is a huge issue that we're trying to get you folks to understand. When they built in the class six cannabis delivery service class of license and claimed no limit to them they've been telling us and you that they had to do it this way. That is completely false. The only thing that a town has to allow would be the delivery drivers who happen to be employed by a class six office dispatch somewhere in the state of New Jersey. The ordinance itself was crafted on false information presented to the public repeatedly. You need to keep this process with integrity. You can't consider amendments to a flawed ordinance when the process has been completely flawed from the beginning. You need to send them back to the drawing board. She asked the board to reject the amendments and consider them inconsistent because they're based on an entirely false aspect of the ordinance that was submitted to you originally and to please revoke your approval of resolution P202106 and use whatever tools at your disposal to stop this process that has gone on without proper integrity and without proper government processes being in place.

Peter Avery, 402 Graham Street, commented that these amendments should be dismissed because they're based on an ordinance that was not well represented. He raised a couple of questions that came up tonight. Several times Councilman Hale was asked what would be used in terms of offices for deliveries if there were unlimited delivery offices in town. The answer was that they would probably just be using it for computers and tables and chairs. There's no evidence that that's necessarily the case and he'd like to know what the study is based on other districts, cities and towns if that's true or if there is sometimes pot stored at these places as was raised by one of your Planning Board members. He also asked why some of the delivery questions were not answered. There's this comment about what the criteria is for a best fit for Highland Park. We're talking about six businesses which would be the most prominent repeated business in town. We're going to have six pot places. He asked what the criteria is for best fit for Highland Park. He asked what the determining factors are that would necessitate throwing it back to the council to determine. Someone mentioned an objective quality point system and it doesn't sound like there's anything like that. The council has not given any real clarity on how these places are chosen. The only answer that was given to me when asked why six was because they based it on that there were six liquor stores in town. The terms that have been raising real legitimate concerns are reefer madness and paranoia. These terms are dismissive terms that show a lack of integrity and thoughtfulness in the argument at council meetings and tonight. He

hasn't really heard anything about why six stores versus one store or no store. Because of the misrepresentation of the early ordinance in terms of the lack of clarity of deliveries, he asked the board to throw this back to the council and have them come up with a much clearer plan.

Rita Polos, 48 Skyview Terrace, commented that she is a mother and a business owner and she is very much against having cannabis in town. She asked that they dismiss these amendments and have to go back to the drawing board. She is not in favor of having six locations. She thinks it is very irresponsible and reckless to allow six locations, the amount we have liquor stores. She does not understand the reasoning behind that. If you have to have cannabis in the town, wouldn't you want to start with one and see how it works? There are many towns that are saying not in our town, not now, not any time, we don't want it and there's good reason for that. She knows that there are people that have come on in the council that said that there's studies that it doesn't cause loitering and there's no harmful effects. There are also studies that prove that it is very harmful. Why are we targeting our children? If any of you think that this isn't going to get into the hands of kids, you're sadly mistaken. To put six locations in this tiny town when you have kids walking all day long is wrong. She works with many groups trying to rehabilitate kids and this is targeting our youth and it's targeting our most vulnerable youth. To allow six locations is disastrous and it makes no sense at all. Our town needs to be revitalized with businesses that bring in restaurants, recreation, arts and music, not marijuana. Pick a location way up on Woodbridge Avenue or somewhere far away and see how that goes. Once you give these locations, you can't take them away. What are you going to do with the aftermath? What are you going to do when it gets in the hands of kids when they leave for lunch? She begged them to please go back to the drawing board and think about this carefully. We are a very small walking town and there's going to be adults trying to take a walk and they are going to have to smell this up and down our town.

Bob Aiello, Cedar Lane, commented that we have heard unclear and inconsistent comments. It does seem that we need increased clarity and understanding and also to make sure that our goals are consistent with the master goals of the organization. The reason he thinks the council could reject the 2022 amendments are because there's way too much confusion about what will happen if this matter goes forward. The process needs to be transparent and there needs to be clear communication. This is an important issue that affects all of us. He finds it also incredible that we're talking about six stores. He agreed with the previous speaker about considering one store to start. Six stores in a tiny town creates a great deal of risk to the community and really brings to question the council's due diligence on such an important and controversial matter in all these interactions. The Council has appeared to not care at all about the views of those who oppose this ordinance. He's been in several meetings discussing this and it seems to go in one ear and out the other. He wondered if the Council is just representing those who are in favor of making Highland Park a pick up place for recreational cannabis. If the Council moves forward ignoring the objections of the community, we will know that this Council frankly does not represent the interests of the whole community. There are many published studies indicating that some people have impaired fine motor skills after consuming these substances. The first time that an accident occurs and it's determined that the driver was driving impaired, and god forbid if a child is hurt, then in the eyes of the community, the members of Council will be justifiably held responsible. He thinks this is something we really need to consider. We are pushing forward something that could have tremendous impact and cause tremendous harm to folks, particularly folks that are most vulnerable. State regulations say any town council and planning board, including Highland Park, can ban pot dispatch offices from having any physical locations in town. This has been unclear from previous discussions. The information seems to change with every meeting and there's many discrepancies. We deserve to have clarity. He urged the council to reject the amendments and take a look at the original ordinance. If you proceed forward against our objections, you're telling us that you do not represent the whole community and also that you do not respect the processes that are in place to ensure the best practices of government. Remember that going forward. He respects Mr. Hale, but he has been very inconsistent this evening. We have another member who is an alternate who has been extremely



disparaging toward members of the community and both in these meetings as well as online. He finds it incredible that the individual who has been disrespectful to others is now sitting in one of the seats on the board. We all have to respect each other and we have to respect each other's views. We cannot be disparaging and we certainly have the right to expect clarity on these issues and that we go forward as a community and do what's right for the whole community.

Annie Aviges, 412 Harrison Avenue, commented that she is appalled and amazed at how they cannot listen to us. Everybody is saying no don't do it and you keep pushing your agenda. She asked who is pursuing this agenda and what are their interests? She thinks there is a conflict of interest here and somebody has an interest in that situation and is not serving the community. There's something wrong going on here. We need to know what is going on behind the scenes. It is amazing the lack of common sense she is witnessing. Who wants to put six shops of pot in such a small community? Why do we need lawyers to defend ourselves from such absurdity? She cannot explain how upsetting it is to see that and to witness.

Milagros Aguayo, 102 South 10<sup>th</sup> Avenue, commented that she does not think marijuana businesses are the best for Highland Park, especially for the children and for the pregnant women. She asked them to reject the council's 2022 amendments and to revoke the early approval of the August cannabis ordinance because the Planning Board cannot add amendments to ordinances based on incorrect information.

George Bogorad, 206 Amherst Street, asked the difference between a medical retail and recreational retail, aside from me needing a prescription. Councilman Hale noted that there are medical facilities that have a wide variety of different products and there are medical facilities that have a narrow scope of products. He thinks it depends on the dispensary, but the primary difference is that the medical dispensaries are for people who have a prescription for it. Mr. Bogorad noted that he is a medical patient. He hasn't heard anything saying what the difference is between the medical and the recreational. He wondered if there's been any real distinction yet or if we have one and that's why we have one medical license as opposed to five others. Councilman Hale noted that the main difference between the two is the need for a prescription at one and no prescription at the other, but there may be others depending on the particular dispensary. Another difference that is probably relevant is that the guiding law for a medical dispensary and the guiding laws for a cannabis dispensary are actually different. There are two separate state laws that allow for each of those. Mr. Bogorad commented that he is really supportive of this in Highland Park. He just wanted to put that on the record. There's a lot of us out there that support this and he is looking forward to it, not just because we all want to get high. There are a lot of problems that came from having this illegal for many years and we'll finally have the freedom to do as we will without having to hide it. He wanted to show his support and thanked them all for doing it for us.

Eric Silverman, 30 South Adelaide Avenue, commented that he does not like seeing vacant storefronts but would rather see vacant storefronts than drug shops. There are crucial differences between pot and alcohol. The biggest difference is that most use of alcohol was not for the purpose of getting drunk. The use of pot is for the purpose of getting high/stoned. He also compared pot with tobacco. Smoking has become socially unacceptable. He believes we would be moving backward if we make pot so acceptable. We should be bringing other businesses into town such as a good retail shop or used bookstore, an art fair or movie house, places where they just set up a TV screen and show old movies. This would be a better forum for people getting together and socializing rather than getting high on pot in one of the lounges.

Leah Kambitsis, 459 Lincoln Avenue, asked if the additional revenue worth risking our children's safety and well-being. Our children will be severely affected by these dispensaries in so many ways. Our four schools are well within walking distance of each other and will be well within walking distance of where these dispensaries are planning to open. Our children of all different age groups currently have the ability to

walk down Raritan Avenue and Woodbridge Avenue for the most part safely in our small walking town and do not have to see cannabis signs and pictures of pot leaves in their faces. That will not be the case moving forward. She hopes that they reconsider this decision. The fact that a person has to be 21 years of age to purchase these products really makes no difference. They can very easily find someone to purchase this for them if they choose to do so. Why put this in their faces? Why tempt these children by promoting this drug throughout our town? It will only add to the confusion and the peer pressure that our children already have to deal with on a daily basis. We should also be very concerned about the increased marijuana usage among adolescents. People who begin using marijuana before the age of 18 are much more likely to become addicted to it and could cause brain damage, development issues, lung damage, lower IQ, anxiety and depression. This is a gateway drug and there are many other negative side effects. She hoped that they reconsider this decision. This is not safe for our town and it is most certainly not safe for our children.

Amanda Lyons, 612 Magnolia Street, commented that she has been listening to everybody and she wondered if any of the people who are so upset and afraid have any experience with marijuana or with people who use marijuana regularly. It's actually prescribed as a medicine by doctors for anxiety and for pain. She is confused by the fear factor that's going on here. There's already tons of people who are using pot who are already here. She doesn't understand why people are freaking out about it. Its legalization has been a very long time coming. She thinks that a lot of the current legal system regarding drugs is based on racism and making money off poor people. Our town voted in favor of this in a huge way and she cannot believe it's taking this long to move forward. She is surprised to hear so many negative voices. She wanted to put in a positive comment. She is a parent and she works in social services and she is a regular person. This is not a scary nightmare that so many people think it is. She is chiming in to put a voice for the other side of the coin that a lot of people see this as progress and a fine business and not a danger. It's something that's already very present and having it present in a legal way seems like a fine idea

Karen Ebbel Avery, 402 Graham Street, commented that she believes in decriminalization, she believes in the social justice issue of legalizing marijuana. The matter at hand this evening is the consideration for the amended ordinances of allowing unlimited pot delivery licenses an additional license for medical marijuana in addition to the five to six arbitrarily designated marijuana commercial licenses which we have heard this evening there may not be any distinction between those five to seven businesses. Just because something need to be legal and should be legal doesn't mean that is has to be initiated in our town on such a large and fast scale. From other locations in the state you can have your pot delivered to your house. We are not saying that people should not have access to it when they need it or when they desire it as responsible decision-making adults who are competent in their own lives. We're talking about unlimited pot delivery licenses with dispatch locations in our town.

Milagros Aguayo, 102 South 10<sup>th</sup> Avenue, commented that she agreed with what the last person said. She asked what criteria they used to vote. Did they consider the protection of our children and the safety of everybody? The marijuana business is going to bring a lot of problem so we have to prevent that. Marijuana business is not going to have a positive or good enrichment to Highland Park.

Mary Botteon, 709 Madison Avenue, commented again on a few additional inconsistencies which is the ongoing issue with council's presentation on aspects of their proposed pot plants. The actual ordinance that you had already written says specifically that there would be stand-alone cannabis delivery services and those cannabis items that would be stored there at what you refer to as the office or dispatch would need trained security personnel guarding the items. The issue is also raised of how many of these there would be. You falsely said that they would be limited to those retail number of stores. That is completely not true. You have actually written into the ordinance no limit on class six cannabis delivery service businesses. This is the huge issue that we are trying to make sure that the planning board knows is the crux of the false

statements being issued by council for months and upon which they have crafted this aspect of the ordinance. You cannot pass amendments onto an ordinance that was built with false information presented to you and to the public. You should reject the amendments and not send them back with recommendations. Council has failed to follow your recommendations in the past dealing with cannabis. Reject the ordinance amendment outright. If you send it back with recommendations to clean up their act, they won't do it. You need to outright reject it.

Mrs. Silverman, 30 South Adelaide Avenue, commented that when she listens to what we're talking about her suggestion is whichever happens or how it happens, that we need to go back. The precepts of project management say number one, the success of it is planning and planning is everything. The success of it is going through a complete risk analysis sheet and design. Back to your criteria that you were talking about, that is needed Matt and that you were wanting to discuss from the council. All of those fine points actually make up the work breakdown of this rollout. She is seeing that there are those gaps. It's one very large financial/emotional/stakeholder project in this town and maybe if it could be approached that way we would see more answers more quickly to the gaps.

Bob Aeillo, Cedar Lane, commented about the comments about a fear factor, people freaking out and an assertion of racism and a scary nightmare. He is not fearful. He has a background as a volunteer in law enforcement that goes back over 30 years. He's aware of the dangers and he's particularly aware of the inconsistency in these amendments. He thinks that a lot of the inconsistency we're getting from the council is being reflected in the fact that people are making disparaging comments. There's a lot of confusion. There's a lack of transparency. We should get a group of people together and put together a document that shows the pros and cons and do it in a consistent way so that everybody has the information. He urged the council to reject the amendments. He also urged everyone to stop saying things like reefer madness. We should not be insulting each other. That is a symptom of how poorly this whole matter has been handled. The message is to reject the amendments. Let's get to a place where we develop documents that are clear for all and we consider the interests of the whole community as well as the inherent risks instead of claiming there's some false fear factor that frankly does not exist.

Rita Polos, 48 Skyview Terrace, asked that they reject the amendments. She is insulted by the caller that said it was reefer madness and that we all have a fear factor. We're all very intelligent people and we're passionate. The callers that are on tonight are passionate about not having marijuana in our town and keeping our town safe and having a master plan that incorporates good businesses not encouraging something that has been illegal for a very long time. Now that it's legal doesn't mean we have to invite it with open arms and open six shops. She encouraged everyone to please go back to the drawing board and reject the amendments. As Mr. Aiello said, let's use a little decorum and understand that we're passionate about this and there may be people who are passionate about marijuana, but we don't have to insult one another. You represent all of us. Go back and take a look at this and clean this up. Listen to the people who have spoken tonight.

Alan Kluger, 115 North 10<sup>th</sup> Avenue, commented that he was part of the board when we initially found the ordinance to be consistent with the master plan. He doesn't think he had it in his mind that there was going to be five or six stores or that there was going to be unlimited delivery services. If that was part of the original ordinance that we had that I probably voted in favor of, shame on me for not realizing that it was that many potential stores in a very small neighborhood. He is totally in favor of redevelopment and totally in favor of not having empty storefronts and want successful businesses, but he thinks he would have thought twice about that many stores or that many businesses related to marijuana in such a small area.

He is not against marijuana but he has some serious concerns about so many stores. He has heard comments that the town overwhelmingly voted in favor of this. 70% was the number and if he's not mistaken, the vote was whether to decriminalize marijuana or to have marijuana allowed in town. The vote wasn't specifically to have stores in town and he doesn't think people who voted in favor of decriminalizing marijuana would also have vote the same way about six stores in town. He heard comments that we have alcohol stores in town and for a lot of people that's a benefit, but for many people that a detriment. Just because we have it now doesn't mean we have to continue in adding other stores that could eventually be a detriment to certain people. You talked about the potential revenue benefit to the town, but he doesn't think he's heard or seen any estimate of what that potential revenue is. He believes someone asked earlier about how much money we would be bringing in to balance the potential negative of having so many marijuana related stores in town. It would be interesting to hear what that revenue estimate is so people can make a decision about whether this is in the best interest of the town. From his perspective, he would think twice about his earlier vote if he knew how many different potential marijuana stores we would have in town. He would be in favor of one or two and see where it goes and if it's successful and if there isn't significant negative impact then we can look to expand.

No one else wishing to speak, Ms. Hand closed the public comment portion and reopened the discussion to members of the board.

Mr. Millet wondered if the land use process was used in determining the number of dispensaries. Let's say the restrictions of having two dispensaries, is that kind of singling out this one use group that's totally legal while other use groups selling other types of products are allowed to have so many. He asked what their role is for being objectively fair to a legal business. Attorney Thomas noted that from a land use viewpoint he doesn't think it really implicates anything. It's not unlike situation with regard to liquor stores. They are restricted in terms of usage in New Jersey because of the fact you have to have a certain license and therefore they are by definition restricted. That doesn't mean from a land use viewpoint there is any discriminatory action that has been taken. It's a policy that's been made by a particular municipality.

Mr. Lanaris commented about when they reviewed the ordinance back in July and deemed that it was not inconsistent with the master plan. He asked if they had any discussion about the number of businesses we were developing whether it was inconsistent or not based on the concept of the business itself. Attorney Thomas advised that the board is dealing with the ordinance of 2022, not the ordinance of 2021. As he reads the ordinance correctly that's in front of you, it seems to indicate that as of the original ordinance that doesn't appear to have been changed except that in terms of numbers it seems to suggest that the retail cannabis at the prior hearing had authorized six licenses. It's now been changed from six to five and the delivery service seems to have been the same. Then you go to the medical and that seems to have been modified to indicate that it's one. The overall number of licenses hasn't been changed from July 2021 to 2022, but the distribution of that number has because now you have specifically one medical license and five retail licenses. Councilman Hale noted that the total number of six has not changed and neither has the delivery. Mr. Lanaris commented that other than the public outcry what has happened that we now have to think maybe it is inconsistent with the master plan.

Attorney Thomas noted that they are being asked to review ordinance 22-2044 and they are no longer being asked to review ordinance 21-2027. Many of the people who have spoken out have asked you do to that. He does not think that is within their power. You're a statutory body that's established by the municipal land use law. You have the right to do certain things so long as they are contained within the statute and the statute indicates that you have a power and that power is found in section 26 of the statute and it talks about reviewing an ordinance for consistency. He understands the concern and the passion and all the other comments, but you are being asked to deal with this particular ordinance in terms of the amendments to the prior ordinance. The place where this debate needs to go is to the governing body level.

I suspect it has and will continue to happen because if you determine that these amendments are consistent, it will go to the governing body and there will be a public hearing and I suspect a number of people will continue to express their concerns, both positive and negative. Your job is to determine whether these amendments to the existing ordinance are consistent with the master plan. He understands that many people are concerned about the fact that you have six licenses for retail and for medical. He understands that there is a lot of concern about the fact that there is an unlimited number of licenses for delivery services as the class six. That was the same in the prior ordinance and is the same in this ordinance. Your focus should be, from a legal viewpoint, limited to the amendments and whether or not those amendments are consistent with the master plan.

Ms. Hand reminded everybody that per the minutes from when we originally reviewed this, the board's focus seemed to be a lot on whether or not these ordinances would permit home-based businesses or small business owners who want to start processes out of their homes. She believes the concurrence was that this does not allow for that. It's still highly regulated through the state and it does not permit the home-based businesses. There was much discussion about what other towns did and whether council had considered any limitations with regards to proximity to houses of worship or schools, but she doesn't think there was a specific discussion at the time about the number. She does not want to presume it was because no one had objections to it, but she does recall that there's been testimony and its ongoing that the number six comes to reflect the amount that the town has in place for alcohol sales and that's the thought process that followed there.

Ms. Hand commented about the very first public comments requesting that we delay a vote on this ordinance. Unless there are members of the board who feel otherwise, she does not feel the need to delay voting on this issue this evening. Hearing no objection from the board she is going to presume we are voting on this this evening. We are tasked with whether or not these amendments to the already existing ordinance have now made this ordinance inconsistent with the master plan. We're looking for a vote on whether these ordinances are not inconsistent or inconsistent with the master plan. She will accept a motion one way or the other.

Attorney Thomas advised that the Chair should solicit a vote to indicate that the amendments are consistent with the master plan. That way everybody knows simply that if you vote in favor of the motion you're saying that it's consistent and if you're voting against the motion, you're saying it is inconsistent. He will do a resolution to outline some of the things that were talked about and then put in the proper legal language at the end.

Planner Cosenza asked Attorney Thomas if it would be worth clarifying for the board and the public that for the purposes of finding consistency in the master plan, the amendments that the planning board should be reviewing are only those that are amending the land development ordinance, notwithstanding those comments received and heard pertaining to chapter 136 licensing and chapter 374 taxation. Attorney Thomas agreed that it is a valid point. We're dealing with the land use portion of it.

It was MOVED by MILLET and seconded by WILLIAMS that these ordinance amendments are consistent with the Master Plan.

ROLL CALL: Ayes – Brescher, Chin, Hadhazy, Hale, Lanaris, Millet, Perlman, Stern Cardinale, Williams, Hand.

Nays – None

There being ten (10) ayes and no nays, motion passed.

**Correspondence and reports.**

Zoning/Building Officer report –Mr. Brescher reported that the subdivision on South 7<sup>th</sup> Avenue was started and they changed it a little bit. They're doing a modular home over there now. Ms. Hadhazy noted that she saw the work today and it's fascinating. A lot of the neighbors were out watching. They've put the foundation in and the basement looks really good. She is interested in seeing this modular homes go up and they're doing one right next door too.

Mr. Millet asked if there has been any movement on permits or anything for the girl's yeshiva on Cleveland Avenue. Mr. Brescher note that he has not seen anything some across yet.

Ms. Hand asked if anyone has moved into the Walter Avenue development yet. Councilman Hale noted that it is his understanding that half of them have occupants. Ms. Hand commented that she is hopeful that the traffic patterns hold up and aren't disturbing in the way we hoped because the building looks beautiful and blends so nicely into the landscape. She does remember everyone's concerns about traffic pattern and traffic flow so hopefully that continues to be well under control. She thanked the Planners for their help in designing the project. Planner Cosenza noted that he and the Borough Engineer will be doing final inspections on landscaping and site work shortly.

Mr. Williams commented about the LSRP report for 238 Cleveland Avenue. We're on the fourth version and it has come in at 1,019 pages. There are a number of discrepancies. He and Bruce Koch had a teleconference with the LSRP and he thinks we have everything agreed upon and they will get one final version and then Bruce can finish the completion report.

Planner Cosenza referenced the residential form based code that he's shared internally. He'll be finalizing the 3d models and the design elements of the code in the next week or two. He's hoping in the next month or two you'll have in front of you for consistency review. Ms. Hand asked where he ended up coming down on the stacking of coverage benefits in exchange for green building. Planner Cosenza noted that he is going to keep it simple because he doesn't want to make it problematic for homeowners and the Zoning Official to interpret it, plus he doesn't want to get too aggressive with the benefits because we're in a wetter climate and with storm water runoff issues and he wants to be cognizant of that.

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

Ms. Hand opened the meeting to the public.

Mr. Aiello commented on her demeanor and that it is disgraceful. Your lack of regard for the community is noted and we will not forget what has happened tonight. You should not have taken that jovial demeanor. He also commented about the demeanor of Mr. Chin and Mr. Stern Cardinale. There should be respect and the demeanor of the board in the last 60 seconds is disgraceful.

Mary Botteon, 709 Madison Avenue, commented that if Padraic's remark was directed towards her, that was extremely unprofessional.

Ms. Hand commented that direct personal attacks on board members are not constructive criticism.

There being no other comments, public comment was closed.

**Adjournment**

There was a motion to adjourn from HADHAZY and a second by STERN CARDINALE at 9:40 pm the meeting was adjourned.

Respectfully submitted,

Jennifer Santiago  
Board Clerk