

# **Highland Park Neighborhood Association**

## **Minutes of Special Called Meeting**

**Date: September 24, 2019**

At 6 pm President Elizabeth Sanfelippo called the meeting to order. She thanked everyone for coming and introduced Vice President Jessica Powers and Secretary Judy Jones.

Sanfelippo stated the September 10, 2019 meeting minutes had been distributed and asked if there were any changes or corrections. None were offered and the minutes considered approved.

Sanfelippo shared the general format and ground rules for meeting. She asked everyone to save questions until after the developers have made their presentation, to be polite and limit the side conversations so that everyone could hear. She said that people wanting to ask questions or make comments after the presentation would be asked to come to the microphone and stand in line, adding that if you're no able to stand in line to see her and she would make arrangements to keep your place in line. She reminded everyone that the Highland Park vote tonight was only advisory to the process and that only Highland Park residents would be able to vote. Sanfelippo said that with respect to meeting format, the developers would present first. They will be followed by Jessica Powers who will share about the decision made by the Redmont Neighborhood Association and explain what Highland Park was being asked to vote on. She shared that two individuals would speak for and against the zoning change requests and that their remarks would be limited to four minutes. This would be followed by audience questions and comments which would be limited to two minutes per person.

Sanfelippo was asked if the Highland Park Zoning Committee had an opinion on this zoning change request, she said the Committee discussed it and did not have a strong opinion one way or the other.

### **Arlington Ave Project Presentation/David Silverstein & Evan Watts**

Sanfelippo introduced developers David Silverstein and Evan Watts. Silverstein established there were a good number of people in the room who had not yet heard the presentation. He shared this was the 5<sup>th</sup> presentation for them, saying they had been to the Redmont Association three times and that this would be twice now coming to Highland Park.

Silverstein explained the location of the property parcel, saying that it was the Bayer Properties on Arlington right before you get to Highland and that they owned that piece of property and the property right behind it. He explained their vision and that in

Birmingham today the market can support additional higher end hotel rooms. He gave the Grand Bohemian as an example, saying they did a good job serving the market but that they were only 100 rooms. He said he felt this site on Arlington would support a boutique hotel project of about 125-130 rooms as well as a 30-unit condominium development, going on to say he didn't feel there were a lot of options for people who want to 'own' and not rent in Redmont and Highland Park. He said a nice 'use' to add to the project would be a wellness center and spa, that in their plan that facility would be available to hotel visitors, condominium residents and the general public. He said this project, along with the Crescent Office Building (Sirote Permutt Building), would provide a buffer from the freeway. He explained the current zoning was O & I and under that zoning they can not do a hotel - but they could do an office building. For this reason they would like to rezone the site to a B-3 classification so that they could bring a hotel use to the project. Silverstein said they were willing to tie conditions to the rezoning that would be tied to the development plan that would limit the height of the building and carves out of the B-3 zoning certain uses that the residents would not want on the site. He said if the world changed and for some reason they decided not to go forward with the project, tying conditions to this zoning change would limit what a different developer could do without coming back before the neighborhood and going through this same process. He said they had been asked what *could* be built on the site under the current O & I zoning and shared that a much larger building could be built with potentially much more square footage. He asked that residents consider that something is going to happen there, that at some point Bayer Properties will move and the building will be vacant; that even if he didn't go forward with the project and sold the property to another developer, something will happen there.

Silverstein shared about his background as a Birmingham resident and developer, saying his track record on projects included The Summit, Whole Foods/Cahaba Village, and the Pizitz Building. Silverstein then introduced Evan Watts who went through the site plan for the project, explaining location, access, parking, landscaping, lighting, and building materials. He elaborated on the question Silverstein had raised earlier, what one could build on the site at the present time with the present zoning. He explained part of the site was zoned R-6 which would permit an 8 story, 80 feet tall residential building. He explained the minimum setback requirement and that a project could set back further and go higher. In this concept you could accommodate over 85 units dwelling units at roughly 1800 square feet, 2 or 3 bedroom apartments representing about 250,000 square feet. He said the south side, facing Arlington, was currently zoned O & I. He explained, adhering to the same setback requirements, you could build a 20 story office building at 205 feet tall. That project, at 650,000 square feet, is 2.7 times the size of the 250,000 square foot project that this group is proposing. He explained that part of their request was to flip the location for residential on the parcel, that the current zoning allows residential on the northside, on 22<sup>nd</sup>, but that they thought it more contextual and fitting with the neighborhood to put the residential along the south side, facing Arlington. He said Arlington is a much more residential street than 22<sup>nd</sup>, and that contextually it is much

better to allow for ‘expressway to office to hotel to residential’ rather than the reverse as it is today with office on Arlington and residential on 22<sup>nd</sup>.

Sanfelippo asked Silverstein if he would present their proposed ‘Q conditions’. He stated that they were proposing when the site is rezoned to B-3, that it will be tied to this particular development, where the buildings are located, where the access points are, where the private drive is located, so that you know where and what the development will look like when they build it. He said they were also agreeing to limit the height of the building to 10 stories. He said they had carved out some uses allowable with B-3 zoning that would not be permitted. Silverstein said the goal with tying the conditions to the zoning was to give the residents comfort that if the developers say they’re going to build something, that was what was going to be built.

Powers asked the group if they wanted to take a break and peruse the developer’s site plan and other presentation materials. The group was satisfied at this point. She went on to explain that two votes on the two proposed zoning changes would be taken that night. She said one, “#22” (ZAC2019-00022), is a request to rezone one piece of property from R-6 (multi family dwelling) to B-3 (community business). Silverstein explained the current R-6 zoning covers the Sycamore Apartment Building and that they were currently working with the owner in an effort to procure that piece of property and add it to this project. He explained if they were unsuccessful in that effort they could still do the project without it. He said that was the reason there were two zoning change requests, one was for the Sycamore property and the second was for the balance of the site. Powers went on to explain that even though we would need to vote separately on the two different zoning change requests that they were both part of the project just presented. The second request, “#23” (ZAC2019-00023), is the majority of the property at issue and is currently zoned O & I (Office & Institutional) and R-6 (multi family dwelling) - and they would like to change it to B-3 (Community Business) for the purpose of building a hotel. She said that we, Highland Park, were not going to do as Redmont had done, that they started out with a straight vote on the original request because the development team has brought us Q conditions to attach to this zoning change request. She said we would be voting on the 2 requests with the developer’s proposed Q conditions. She said, depending on how that vote went, we would then move on from there. Powers explained that we would do that vote by written ballot, that there would be a motion that the residents would then be able to vote yes or no on using their paper ballot. Alison Glascock made the suggestion that residents include their address on the ballots since there were people present who couldn’t vote. Powers said leadership had discussed that and decided we could trust folks in attendance to only vote if they were a resident.

Powers was asked to read the **Q conditions the developers had proposed**. She read: The first condition - Submission to and approval by the planning staff of the PEP Department of a final site development plan, to include but not limited to the location and height of all structures, parking, including architectural screening along Arlington

Avenue, ingress and egress and the location and screening of solid waste disposal container by fence constructed of wood, masonry, brick or concrete which is architecturally compatible with the primary building sufficient in height on all four sides. All on and off site improvements shall be developed and maintained in substantial conformance with the approved preliminary site development plan. The second condition - No structure shall include habitable space more than 10 stories above grade plane. For purposes of determining compliance with this standard any portion of the two story parking structure located above grade plane shall not be counted as a story. Third condition - Uses are limited to those allowed in B-3, Community Business District, excluding the following: Drive in restaurant, automotive, Farm implement or trailer display or sales, Service station, Hardware or building material sales, Motel, Amusement (indoor and outdoor except when the property abuts residential zoned property located within the City of Birmingham); amusement (outdoor) is only allowed by special exception granted by the Zoning Board of Adjustment; Laundry, dry cleaning or dyeing plant (except for a dry cleaning and laundry drop off point for residents and guests of the development), Business service shop, such as blueprinting, accounting, duplicating or employment agency, Business, music or dancing school, Repair service for such items as radios, televisions, shoes, watches or jewelry, Parking lot or garage (except for residents and guests of the development, Automotive, farm implement or trailer repair or servicing, Undertaking establishment or mortuary, Wholesale establishment, including storage and display, Carpentry, painting, plumbing, Tinsmithing, and electrical shops; provided that all work on the premises is done within a building, and all materials are stored in a building, Testing or research laboratory, Millinery, dressmaking, or tailoring, On-premise signs (except for wayfinding, directional and other required building signs or any sign for a business, service, product or activity conducted, offered or sold within the development, Printing or engraving, Light manufacturing limited to the following: Furniture, Jewelry, Cosmetics, Candy, Fur goods, except tanning or dyeing, Medical, dental or drafting instruments, Optical equipment, clocks, watches and similar precision instruments, Other manufacturing, processing, fabricating or assembling operations which do not create any objectionable noise, vibrations, smoke, dust, odor, heat or glare, but only when the manufacturing, processing, fabricating or assembling is incidental to a retail business conducted on the premises, Mini-Warehouse, Hospitals or other institutions, but not including mental hospitals or penal institutions; provided, however, churches shall not be excluded, Public buildings, Telephone exchange or service buildings (except as related to the development), Utility Installation or service building (except as related to the development), Adult Care Facility or Child Care Facility (except as an accessory use), Wireless communications facility, in accordance with Article VI, Section 18, Apiary, Pay Day (Deferred Presentment) and Title Loan operations.

Powers opened the floor to questions about the developer's Q conditions. There were none. She shared the zoning change request votes from the Redmont Neighborhood, referred to initially as #22, on the single piece of property was 43 approved and 82

denied. She said the second request, referred to as #23, which was the zoning change request for the majority of the property, the vote was 47 approved, 79 denied.

Powers said we would now hear from two Highland Park residents, one for and one against the proposed changes - and then we would move into the Q/A portion of the meeting. She said Phillip Foster would speak against the proposed change and Ray Davis would speak in support of the change. Powers said both Phillip and Ray had four minutes to speak. Sanfelippo spoke up saying 'Thanks to John Somerset for being our timekeeper!'

Phillip Foster introduced himself saying he lived on Milner Crescent in the same house for almost 40 years and that his house was about 600 feet from the proposed development. He said he felt the neighborhood is stronger, more vibrant and more beautiful than when he first moved in forty years ago. He said he felt this was due in large part to the wonderful residents who live here and care so much about it and the Highland Park Neighborhood Association whose collective efforts have helped keep its historic nature in-tact. He said he could oppose the project because they would be able to see the building from their dining room, but there are a lot of people in the neighborhood who are much further away that will be able to see the hotel complex across the horizon. And that's true for people way up on top of the hill, too - ten stories above the grade. He said he felt the sheer scale of the project is going to dwarf some of the historic buildings that have been in our neighborhood for a long time. He also felt it was going to worsen the already problematic traffic situation we have on Arlington and Highland and several other places in our neighborhood. He said the ten-story building proposed is going to top out at an elevation that is at least as high as the Vesta. The grade of the project we're talking about is at 790 feet. They're talking ten stories, they flew the balloon at 120 feet, that will take it up a couple of feet higher than the top of the Vesta building. Two huge ten story structures sitting on top of two or more stories of parking and ancillary buildings are going to need support pilings for their foundations, drilled or blasted deep into the bedrock of Red Mountain. The building site, along the foundations of most of our existing homes are in what the city classifies as a slide zone. He said the biggest reason he opposes this project, and it's not because of the developers because he knows they can do very good work, it's because these developers are asking the city to allow six properties on the side of Red Mountain, for which are currently zoned as residential, to be rezoned as B-3, which includes very few restrictions on what can be built there. He added this sort of high-density commercial development is already happening a few blocks away just outside our neighborhood and in the Five Points area and will be happening again soon on the former Western Supermarket site when it is redeveloped. This type of rezoning from R-6 to B-3, has not been granted in Highland Park or Redmont in 15-20 years. If we approve these requests, it will be a clear message to the developers in our city that Highland Park is okay with rezoning residential property for business uses. Foster called the development out of scale and said it does not fit the character of our neighborhood; that it is in conflict with the city's adopted future use land

plan for the area. The Redmont neighborhood, where the property is technically located, overwhelmingly voted to deny the request. Foster said he was asking Highland Park residents to stand with them and vote no on this request.

Ray Davis introduced himself saying he was a resident of Park Tower on Highland Avenue. Davis said he didn't know the developers and at first glance he didn't think he had a 'dog in the fight' at all about this project because of where he lived and where this project will be. But after thinking about it, he realized he did have a dog in the fight, as in that we may wind up with enhanced security for our neighborhoods, that with projects like this there would be additional lighting and additional police protection, patrols, we'll feel safer walking in our neighborhoods, in our communities. He said we have found that there are bad guys around here, that when we cleaned the neighborhood this week, we found a barrel sized hole in the chain link fence across from Freddy's. Obviously, people have been coming in and out of that hole when they were doing whatever they needed or wanted to do to come through the fence like that. Security is very, very important. The other thing, and even more important, he sees this as an opportunity for progress in this neighborhood and in this city. All of us, or at least most of us, have chosen urban living. And urban living is not cookie cutter subdivisions going back and forth for miles like we see in Hoover and Liberty Park. We live here by choice and part of that is the diversity we have, different people, different backgrounds, different businesses, different types of residences - apartments, condominiums, whatever you might have. That's part of the nature of where we have chosen to live - and why we like to live here. On top of that, from a business standpoint, look at the additional revenues this city will get in hotel lodging taxes, property taxes, sales taxes, occupation taxes; think of the jobs this will create. And now, we actually have a little bit of say so about what is going in there. People complain about developers 'threatening us' by telling us what *could* go in there. But it's not a threat folks, it's reality. We have a chance here to severely limit what could go in there. If you go into cities, Boston, Nashville, New York - you see what multi-use neighborhoods look like and what can be done and how those communities benefit from that. He referred to the quality of the developer's work, asking if anyone had any complaints about the Summit. He said when it was built, everyone was questioning the wisdom of an 'outdoor mall' - he asked whether anyone cares about going into an indoor mall these days? He said he saw that as good vision. He said look at the 'dirt pile', look at the Pizitz Building, saying these people have vision, they're not going to put up a piece of junk. They are going to put up a project that will help our community, something that maintains or even increases our property values.

Sanfelippo told the group that the floor was now open for comments and questions, asking people to get in line and when it was their turn to speak into the microphone and share their name and address and that they were limited to two minutes.

Morris Newman (28<sup>th</sup> Place South) introduced himself as a resident of Highland Park but said, given his position with the city as chair of the City Zoning Board and that the board

may have to hear this variance request sometime down the road, he was not going to take a position on the issue or vote tonight. He said he did have a question that might result in a friendly amendment to one of the Q conditions. He went on to say that the developers had listed all the things that won't go in but that they didn't specifically state what *could* be going in. He said he had a list of the 42 uses that are permitted in B-3 and he wondered what we were left with, suggesting that rather than stating the only the specifically stated exclusions but that we also state specifically what the inclusions would be - as in stating the project shall be limited to the following uses only so that it becomes completely clear. Newman said he offered that as a friendly amendment to the Q conditions the he presumes will end up as a motion before the body.

Silverstein said they did not have a problem with that. City representatives Tracy Hayes (Natural Hazards Administrator) and Kim Speorl (Senior Planner) were asked to explain policy related to Q conditions. Speorl said traditionally requests *exclude* the uses and not add the *allowable* uses, that has been city policy. Newman suggested that perhaps the uses could be stated clearly for the record. Silverstein said they'd be happy to do that.

Diane Weatherly (Milner Crescent) introduced herself and said she had a question. She said the balloon was flown at 120 feet and the proposal states the building will be 10 stories. She asked - is there any chance the building will be higher than 120 feet, since *stories*, as a term of measurement, is nebulous. Silverstein said he didn't think so but that they hadn't measured it exactly to the foot. Weatherly said while she favored a limit of 80 feet, she asked whether he would be willing to add a height limit to his Q conditions of 120 feet. Silverstein said he would take that under consideration. She then asked whether the hotel bar on the roof would count as one of the stories, Watts confirmed it was included. She then asked to confirm that if the zoning was changed to B-3 from O & I, if the project wasn't done whether the property would stay at B-3 or revert back to O & I. Silverstein confirmed it would stay as B-3.

Joe Taylor (13<sup>th</sup> Ave South) introduced himself and asked to confirm if the property was zoned B-3 whether the O & I went away. Silverstein confirmed yes it would.

Dottie King (Milner Crescent) introduced herself as a resident on Milner for 23 years. She said it is no wonder that developers want to come into our neighborhood because it is a wonderful place - and we would like to keep it a wonderful place. There have been numerous developments that have already eroded the beauty and value of our community. She said she felt we needed to look at a cost benefit analysis, who is benefitting and who is not. She said she saw no benefit to the Redmont or Highland Park neighborhoods from this development. She said - benefit in increased taxes to the city, yes. But to our neighborhoods, no. She said the only benefit will be to Bayer Properties and to their investors. King stated the neighborhoods bear the brunt of the construction, the noise, the traffic - and that is just the short-term impact. The longer-term impact will be more severe. She stated that she plans to vote no and she hopes others do as well.

James White (Milner Crescent) introduced himself, shared he had attended the Redmont meeting and said he felt the group tonight could use some clarification on what happened there that night. He said they did talk about the Q conditions, they distributed them in writing to everyone in the room. White said his recollection was that they were two votes and that they had voted it down with Q conditions and without them and that he'd like some clarification on what had happened. Powers asked Redmont President Jay Reed to share/explain what had happened in their meeting.

Jay Reed introduced himself and thanked Highland Park for inviting them. He reported there had been a lengthy discussion regarding the Q conditions at the meeting but what Redmont residents decided to do was take what was before them from the Committee and vote on that and not entertain any conditions. At the end of the meeting someone did come with a motion and listed Q conditions, that motion was tabled and there was a motion to adjourn the meeting.

White said he feels like some kind of development here is inevitable and that he could get in favor of it but that he will vote against it as it's currently proposed for a couple of reasons - one, in Highland Park, the Capri went up and at that time he had the unfortunate situation of being on the Zoning Committee because there were tons of complaints about it because it was too high, there weren't adequate setbacks, they ripped up all the sidewalks; he said he looked at this proposal and decided there were a lot of the same characteristics present that upset the neighborhood during the Capri project. He said there was a proposal at the Redmont meeting from the developer to lower the height to either 8 or 9 stories. He said his thought was currently that the neighborhood should vote it down but if the developer could consider making changes that are neighborhood friendly then it might be something we could take back up at a later date.

Bob McKenna (Highland Avenue) introduced himself and said his address was the Clubhouse on Highland. He said he had restored the home over the past 15 years. He shared at one point he asked to go for business zoning. He realized with the current zoning he could tear it down and build a ten-story building consistent with its zoning. But he realized he wanted to preserve the home and run it as the same business it has been functioning as for the past 50-70 years. He felt like applying for business zoning would have been the right thing to do. So he came before the neighborhood and didn't just get a "no", he got a "hell no - you're not getting business zoning!" He said he realized over time that the neighborhood's message was to keep doing what he had been doing, that they wanted to keep the building, the vitality of people coming in and out of the Clubhouse. But to rezone means that once something happens that then the 'use' can change - whether it's a gas station, a McDonalds, whatever. He said he was voting against the proposal tonight, not because of the quality of the development or the people associated with the project - but because in this neighborhood, we don't upzone, we downzone. If you're residential you keep it residential and you do wonderful residential



projects. All of us love this neighborhood, we appreciate it. It is the American way that we can all come together and discuss these points honestly together. He said he was proud of everyone there.

Paige Klein (Highland Avenue) introduced herself and said yes, like any good American gathering, she actually has some skepticism around this, as in how much of what we are doing tonight really matters. As in, whether the Zoning Committee and City Council are going to vote for this regardless of what we say. She said she would be interested in seeing how it all works out as this is her first time participating in a process like this. She said she was learning so much but still so confused about a lot of it. The gentleman before Bob mentioned the Capri. She said she has been walking the neighborhood and found the Capri. And 2600 Highland. She said those were very similar properties, they have the parking garage hidden underneath and have 8 stories above them. She said she met security guards and neighbors and was able to learn that there are 48 units in the 8 stories above the parking decks. So to her, this new project feels like something similar, that 8 stories was different from 10 stories and that she likes the idea of a height limit in addition to the 'story' limit. She said she also had a concern about the traffic. She said she read the traffic report and that it was based on 30 condos - but she said, what was written in the rezoning request is 'no more than 50' units, and the difference between 30 and 50 is 66%. She said if you redo the traffic study which is still in draft, it could have a significant impact on what we are imagining traffic will be. She said she was leaning toward 'no' but also felt like Redmont missed a chance and that she hopes that Highland Park doesn't. She entreated everyone to stay after the vote tonight and let's consider what we say no tonight but what do we say yes to?

Joe Wilson (Milner Crescent) introduced himself. He said there were lots of reasons to oppose this project, precedents, traffic, quality of life - but that the one that hasn't been talked about too much is that our neighbors in Redmont oppose it. Wilson said he feels like we should support them in their decision since if the situation was reversed, we would hope they would support us. He said he would be voting no.

James White (Milner Crescent) introduced himself. He said his view would definitely be blocked but that he may not have to worry about that because the traffic may be so bad just to get home. He asked the developers to talk a little about the traffic plan, saying he had not it - what's the anticipated increase in traffic, where will that flow be, what about people getting onto 31. He pointed out we don't know yet what the traffic will be related to the new building on Highland Ave. He said with 125 hotel units and room turnover every 1 to 2 nights he knew there would be more traffic. He conceded he felt the traffic issues related to the hotel would be greater than with the condominium units.

Silverstein first addressed the downzoning comment made by Bob McKenna, saying that he felt it wasn't in the neighborhood's best interest to keep an O & I zoning on Arlington. He added he felt it was best to put condominiums on Arlington rather than someone

coming in later and building a major office building. He pointed out it was a wonderful office building location, that there are very few Class A buildings in this area, the Crescent being really the only one. He said the Crescent hasn't been vacant at all since they built it, it's been full. He said you could end up with someone coming in and wanting to put a corporate headquarters here with traffic issues that would really be impossible. He said when you're talking about condominiums, whether it's 30 or 40, whatever the market will bear, we're limited in height so we can only build so many, but condominiums have the least impact on Arlington. And the hotel during the day, is not something that's creating heavy traffic. At 8:00 in the morning, people aren't flocking into the hotel. He said he feels the condos on Arlington and the hotel where it is planned would be the right mix for the site and as proposed would almost have more benign effect than an office building or retail development. He went on to say that Arlington should be more pedestrian friendly and that some traffic control measures were needed. He added that one of the best features of the project was allowing drivers to come off of 31 straight into the private drive instead of having to use existing streets. He said if the site was developed into an office building that the traffic will be much worse.

Silverstein also addressed the request earlier for a height limit to be added to the Q conditions. He said he felt they would be willing to say 125 feet just to be sure they have enough room for ceiling height and such, pointing out the final design of the building hasn't been completed.

Marian Wilson asked Council President Abbott if it was true that we didn't need to factor into our thinking avoiding a worst case scenario because relatively soon we will get to rethink zoning as part of the framework overlay process. Abbot replied that Highland Park's framework planning will start sometime around next March. She said the framework plans are coming up and residents will have a chance to deal with what you want in your neighborhood, what you want the zoning to be, etc. Wilson said this made her think that we didn't need to think along the lines of avoiding something that is worse because we're going to be able to, in March, try and come up with what we think is optimal. Silverstein pointed out that as owner of the site, he would have a voice in that process also and that we would be back in this same position potentially. Abbott said Silverstein would not have a say so, that the neighborhood has the say so in a framework plan. Kim Spearl, City Planner, said that she had been fortunate enough to work on 4 or 5 of the framework plans in some other communities. She explained the framework plan would be the first step in the process; that there would be a series of public meetings where residents would be asked to come out and provide feedback on community renewal, economic vitality, transportation and infrastructure, all the areas that would be included in a framework plan for our community. She said after they have a draft of that plan, the city staff will meet with the residents and go over future land use categories that would include this property and we would want to identify based on current trends and needs for the community if our current land use categories need to change. After we do that part, Councilor Abbott referred to the rezoning process. After the framework plan is

finished and they've identified the land use categories, then they would look at converting existing zoning to the new zoning in the ordinance. She pointed out that Highland Park was still under the older section of the zoning ordinance. The Rs are the residential category, the Bs are the business/commercial, the Ms are manufacturing/industrial. She said the neighborhoods that are residential will be D for dwelling, commercial categories will be C, they will have mixed use areas, they will propose mixed use low, mixed use medium, mixed use high, mixed use downtown, and any industrial properties will be an I for industrial. This follows the framework planning process and all of you will be invited to participate in the framework plan, the developmental land use plan and the rezoning plan. She reiterated they do not go property to property and ask property owners is this what you want for your zoning. They do it collectively by community, by neighborhood and will want residents to participate in the process. A question was asked, who has ultimate approval authority? Speorl replied, ultimately the rezoning will go through this same process, it will come to the neighborhood, either a series of neighborhood meetings or one large community meeting, it will go to the Planning Commission where it will be a public hearing and ultimately the City Council will review it and there'll be a public hearing associated with that also. So, there will be multiple meetings and public hearings to get resident input. Someone asked if the developers get their rezoning request approved before this, then will it stand? Speorl said it will change because if they get to B-3, after the framework plan, the B-3 will be gone. So the city staff and the community will look at what the zoning should be for that property. For example, the equivalent for B-3 in the new ordinance is mixed use-high. So we will look at that property and see if that fits. Properties under the old zoning that may not necessarily fit with one of the new zonings, we'll do some research. There may be some properties that become 'legal non-conforming uses' as a result of the zoning change, that they try to avoid that but sometimes it's unavoidable. John Somerset clarified that 'legal non-conforming' means 'grandfathered in', Speorl replied yes. Silverstein asked to confirm that the Q conditions would stay with the zoning changes, Speorl replied yes.

Liz Saunders (32<sup>nd</sup> Street) introduced herself. She expressed disagreement with Mr. Davis' assertion that the development would result in additional security for the neighborhood. She said that the Q condition list of what wouldn't be allowed was ambiguous so she agreed with the individual who suggested earlier that more information on what was included would be good. She asked for more information related to parking, how it would be covered and whether it was going to be covered for more than the residents, as in their guests also. She questioned whether the wellness center would actually have the capacity to benefit the neighborhood rather than just the hotel guests and condo residents. She said she did think rezoning was good especially in the effort to control what would be going in there. She said she also agreed with a height restriction, that she was late to the party related to the big ugly building by the Jewish temple (Vesta). She mused that an alternate plan would be nice, that she appreciated developers who would listen to the concerns of the neighborhood and develop alternate plans. Watts

replied that the parking was below the complex and accommodates every use on the site, it actually has more parking for guests, resident's guests, hotel guests and spa/wellness customers. He reiterated their vision for the wellness center was that it would serve the community not just the hotel guests.

Suzanne Baker (29<sup>th</sup> Street South) introduced herself. She said she had been a resident of Highland Park for almost 25 years. She said she had submitted a question to the city planners in writing at the first meeting and would like to ask it publicly tonight. Similar to the opportunity the neighborhood will have for input related to the framework planning - she said she would have appreciated if the developers had come to the neighborhoods before they had decided what they were going to do and found out what we would like in our neighborhood and how a development could benefit all of us. She said her question to the developers was did they consider any alternative developments that would be more in scale with a historic neighborhood, that would fit better architecturally. She gave examples of the Tutwiler, the Pizitz Building and the Claridge. She said she didn't understand why it had to be this big or look like 'this'. Silverstein replied that obviously there's a difference of opinion with some but they have attempted to design something that fits in with the neighborhood. He said they had never been involved in a project from an architectural perspective that didn't quite fit in. He said he submits that it is a matter of taste, what you like and what someone else likes. He said with respect to the materials, the design, they have thought it out. He said some of you may not agree - which is why they are there talking. But he assured her, the effort had been made to architecturally design a project that does fit in. He said they went to the Redmont neighborhood early on, back in late June, because technically it is in that neighborhood and added they have made the effort to listen. He said they've attempted to be responsive to comments and feedback, that the Q conditions being tied to the site plan were in response to feedback they received. He said they've listened - and asked rhetorically, will they get agreement from everyone? No and he realized that some people would just not want this development - and he appreciated that.

Laura Robinson (Milner Crescent) introduced herself as a Highland Park resident for over 17 years. She said her concern was with traffic because when the Capri went in and there were discussions about traffic and what was going to happen - what has actually happened is that Milner has been used as a cut through fly by street by everyone trying to avoid that additional congestion. While she understands what is happening on Arlington, she pointed out that if a light is put there, they will send everyone on Smolian down Milner Street to avoid Arlington. She said putting a light on Arlington may solve one problem but it will create much bigger problems for a truly residential area. She directed a question to the city zoning people - with these overlays, will the height possibilities go down, will the buildings that will be built on this land be shorter? Hayes replied that it depends on the zoning classification it goes to, that they couldn't answer that until the framework plan was complete. Speerl did add that the new zoning classifications did not give bonuses for additional setbacks like the current O & I ordinance does. Silverstein

said he in no way was advocating for a light on Arlington, he simply thinks that they need to work with the city to slow down the Arlington traffic, that he can't predict what that would be.

Franklin Biggs (Previously Milner Crescent, now Caldwell) introduced himself. He asked if the developers were receiving any concessions from the city in applying for their permits such as rebates on property taxes from the county, anything from the city? Rebates of sales taxes? Have you asked for those? Will you ask for those? Silverstein said that as of today they had not commenced any discussions with the city regarding rebates of taxes. He said what they will discuss with the city, because this part of this project is improving public infrastructure, sanitation, sewer and water, the pipes in this area are ancient. He said as with any project you have to upgrade these systems which are public infrastructure, so yes they may be discussing with the city how they can work with us because that is public infrastructure. Sidewalks for example, they would hope the city would work with us on improving the sidewalks which are in the public right of way. The city has been a partner of ours on a number of projects where you have to enhance the public infrastructure. Biggs went on to say that he appreciated the developers, the good work they did on the John Carroll site but said that the building height was an issue. And as Phillip Foster said, the developers might not have brought us a 17-story building but they did bring us the same height. Watts interjected that the height was not the same, residents commented that elevation had to be considered.

Jeffrey Wurst (Highland Ave) introduced himself. He thanked everyone for coming out tonight and thanked Mr. Silverstein for his time. He said he walked in tonight with a prejudice against this proposal, that he had lived in Highland Park long enough to have seen a lot of bad proposals come before the neighborhood. He said he didn't feel this development was one of those. He said he appreciated how much time and effort had gone into this plan, he liked that it introduces somewhat of a buffer between the more heavily business aspects of the neighborhood and the residential areas. He said he was ordinarily a little troubled by a project like this that does not borrow from the existing architectural styles, that introduces a new discordant element. However, Wurst felt like this wasn't so much an issue here because of the location of the site. He said the concern that he has, which seems to be the same as most of his neighbors and friends, has to do with scale. And as the developers pointed out, this is a matter of opinion. But as best he can determine, the vast majority of the people who are against this project are against it because of scale. He said he felt a lot of the opposition would drop if there was a height limit, that he wasn't sure what that might be, what the height would be that would cause the opposition to melt away. He said he loves the bottom 4/5 of the development but as it stands he was probably going to vote against it because he feels it is out of keeping with the surrounding structures and scale and will provide somewhat of a visual imposition to many in the neighborhood. He said, like the speaker earlier, he lived far enough away he wouldn't be able to see it. But, he said, his neighborhood, that he has lived in for the past 25 years, would be impacted and he cares about that.

Sanfelippo thanked everyone for speaking. She said Randall Minor who is technically the applicant but also the Zoning Attorney for this project and has marked up what would be allowed in this zoning - which would be Retail store, Hotel, Personal service shop (such as barber shop or beauty shop), Photographic studio, Massage establishment, Office, Bank or lending institution, Radio or television broadcasting stations, studio or office, Dwelling jointly with other uses or as a principal use including family day/night care facilities, Private club or lodge, Park, Community garden, Farmers market, Public market, Indoor urban farm, Accessory structures and uses to include accessory child care centers.

Sanfelippo said she wanted to share that at the Redmont meeting someone had brought up during the presentation of the traffic study that traffic would go from approximately 700 to and from trips per day to possibly 2100 trips per day. She added that was a very rough generalization of a 50+ page document but that it was worth mentioning.

Powers said we would now move to voting, that they would be handing out paper ballots. She asked that no one be offended if they were asked where they live to confirm their residency. She encouraged residents to stay after the vote... She said at the Redmont meeting, people voted then left and tonight we could have some more business to take up. She said if it was a yes vote, there would be no further business - but if the vote was no, there would be some other business to discuss and potentially additional voting. In response to a question Powers stated that if you own property in Highland Park but you do not live there, you cannot vote.

Powers reminded the group this was two separate yes/no votes. That the first vote was for the #22, single piece of property, 1248 22<sup>nd</sup> St South, an application to change the zone from R-6 (Residential) to B-3 (Community Business District). She said the second vote (#23) was for the remainder of the property which was going from O & I to B-3. She said both of these included the Q conditions suggested by the developers.

The votes were collected and counted by all three HPNA officers. Powers reported out the results - for the first vote/request, #22, there were 27 yes votes and 41 no votes, so the no votes carried. For the second vote/request, #23, there were 27 yes votes and 41 no votes, so the no votes carried.

Powers said that what she felt came out of today's vote was that some restriction on height might make the project more acceptable to the neighborhood. She asked if there were comments or motions now related to building height.

A resident asked a question about the flying of the balloon, saying she didn't think it valuable because they flew it from the bottom of the hill. Watts said both balloons were brought up from the corners of each prospective building, the first hour was from the site

of the hotel building (at 120 feet), the second hour, it was from the site of the residential building, also at 120 feet. A resident criticized the developers for their selection of hours the balloon flew, Watts explained those were the only hours that the FAA would approve it being flown. The resident asked why they didn't document the balloon flying with photos. Watts said they did, they were presented at the first meeting, that they had them here tonight if anyone wanted to look at them.

Bob McKenna commented that perhaps if the building was kept to the height of the Sirote Permutt building then the reception would be better. He said he felt sorry for the developers coming on the heels of the Vesta project that everyone disliked so much.

Powers pointed out that the developers intended to go forward with this process; that by Redmont and Highland Park voting the request down, if the city council approves the request, it could be without Q conditions. Powers said she has faith that Councilwoman Abbott will vote in accordance with the neighborhoods. But, she went on, she doesn't have that same faith in all the individuals on our City Council. She said she felt we needed to give the ZAC and the City Council something that we might be willing to do - but if the neighborhood wants to roll the dice and take what we get, then okay, we've had that conversation. A question was asked, that if the neighborhood voted on a height restriction now, how would that affect the first vote. Speerl clarified that what will go to the ZAC for their meeting next week would be a staff report and it will include a description of the project, the Redmont and Highland Park votes; they could state that the first vote was for the request with the Q conditions submitted by the developer and include the numbers - and should Highland Park decide to take another vote with your own Q conditions, those would be added to the report as well. And all that information would be presented to the Zoning Advisory Commission who would then make a recommendation to the City Council. Powers said she felt we should at least take a vote on height. Someone asked if anyone knew yet what was happening at the former Western site, with respect to height and development. No one did. But someone shared they thought it was zoned B-2 and was limited to 75 feet in height. Speerl confirmed this. Powers said out of consideration for the developers that she would excuse them from the meeting.

Morris Newman was recognized and said before the developers leave, that he knew they were disappointed in the vote but he was curious, that notwithstanding this rejection by Highland Park and Redmont, if they would still be willing to accept those Q conditions that they proposed this evening. Silverstein said they had a bit of a dilemma; they had come before both neighborhoods trying to work out something - and it didn't work out. He said perhaps they should just go forward and see what happens, that he was torn about what to do. A resident suggested that if the developers thought the Q conditions they had presented that night were good then they should be willing to go forward with them regardless of that happened with the votes. Silverstein said she was right and said that when they go to the ZAC meeting, they would take the Q conditions they had proposed

that night. Powers pointed out, to be sure everyone understood, that the developers did not have to do that.

Morris Newman stated that he had a motion to make, asking Silverstein to wait before departing. He reminded the group that what we were doing was making a recommendation to the Zoning Advisory Committee, which in turn makes a recommendation to the City Council who has binding authority. The motion would be that the recommendation to the ZAC, based on the previous vote, is that the Highland Park Neighborhood Association recommends rejection of the zoning change request but in the event of an approval by ZAC or a recommended approval by ZAC that any approval should approve the Q conditions that were brought forward to us. Moreover, we should state out loud to them in this motion that it is the sense of the neighborhood that the rejection is primarily based on what the neighborhood perceives as excessive height of the structure. That way we are not just simply telling them no, we are telling them why we are saying no, assuming the body agrees with that, and that we are saying that again, while we hope they just say no should they decide to proceed on it they're not proceeding with a naked approval but rather it is with these Q conditions as stated earlier and as David (Silverstein) has kindly stated they would adhere to. So I make that as a motion. John Somerset seconded the motion.

Paige Klein asked whether it made sense to put in a height limit, perhaps 80 feet. Newman said she could suggest that as a friendly amendment to his motion and he could either accept it or reject or he could allow discussion. Newman said he was trying to get to the sense of the community, that if 80 feet was the sense of the community, then ok. Larry Contri moved to call the question. Newman pointed out that calling the question requires a two thirds vote to cut off debate; that it could be a voice vote. Powers called for a vote on Contri's motion. Powers said there were 27 votes for calling the question and 17 against.

Newman restated his motion to be: The Highland Park Neighborhood Association has decided to recommend to the Zoning Advisory Committee of the City of Birmingham that the zoning change request for both parcels be denied. However, in the event that ZAC recommends approval to City Council and in turn if the City Council, in their wisdom, decides to approve either or both of the zoning requests, that the approval shall include the Q conditions that were proffered at the meeting earlier today. Moreover, it is the sense of the neighborhood that our rejection of the zoning change request was primarily due to what we believe to be the excessive height of the structures.

A resident asked for a point of clarification, asking to confirm that this vote does not preclude voting on another motion affecting height at some point in time. Sanfelippo agreed that it would not preclude another vote on a height restriction.

The motion carried with 38 for and only 3 opposed.



Melanie Jackson made a motion to adjourn, Jessica Powers seconded. The motion passed.

**Adjournment:** With no further business the meeting was adjourned at approximately 8:30 PM.

Respectfully Submitted,

Judy Jones

Secretary, Highland Park Neighborhood Association