PLANNING COMMISSION MEETING

September 8, 2011

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Vice Chairman Komjati called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were, Mr. Andrew Eade, Mr. Brian Temming, Ms. Christine Shoop, and Vice Chairman David Komjati. Absent was Mr. Thomas Fitzgerald. Also present were, City Manager Rita McMahon, Assistant City Manager/Community Development Director Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Vice Chairman Komjati asked for additions or corrections for the Planning Commission Meeting of August 11, 2011. There being none, he asked for a motion. Motion by Ms. Shoop, seconded by Mr. Temming, to approve the Minutes as submitted. All members present said "aye". Motion carried.

Vice Chairman Komjati indicated he would change the order of business and move onto New Business first. He asked the secretary to read the Public Hearing Notice.

NEW BUSINESS: (Public Hearing Item)

REFUSAL NO. 2206 CONDITIONAL USE PERMIT REQUEST

Applicant: Marcellus C. Hall
Owner: Jerald Popp
Location: 266 Richmond Street (Parcel Number 15-D-009-0-00-001-0)
District: B-2 General Business District
Section: 1143.06 (a)

The City of Painesville has received an application from Marcellus Hall for a Conditional Use Permit. The applicant is proposing to have exercise & fitness/Massotherapy at 266 Richmond Street (Permanent Parcel Number 15-D-009-0-00-001-0). The property is located in the B-2 General Business District. Section 1143.06 (a) requires a conditional use permit for uses that are not specifically listed in the zoning code as a permitted use. A similar use determination is being requested by the Planning Commission.

Vice Chairman Komjati asked the applicant to address his request. Mr. Marcellus Hall, 266 Richmond Street, introduced himself to the Commission. He indicated that he is trying to establish a business at this address. He currently operates a barber salon on the one side of the building and he would like to use the other half for massotherapy/fitness activities. Mr. Hall stated that he has done research and people are excited about the Zumba Fitness classes. He believes this would be a great benefit to the City as an added service. They have a licensed instructor and they are eager about promoting wellness in the community.

Vice Chairman Komjati asked for comments from the City. Mr. Schaedlich indicated he has met with the applicant to discuss the various uses of the property. This particular site has only six (6) parking spaces. With the various activities that are proposed for the property, there is a need for additional parking. Mr. Schaedlich explained there is a section of the code that allows for sharing parking between businesses. The City would require that Mr. Hall secure additional parking spaces from a neighboring business and submit the proper form necessary for operating the business. Mr. Schaedlich commented that he is not sure if Mr. Hall has completed that portion of his application.

Mr. Hall replied that he has spoken to the Walker Brothers. They are apprehensive about signing an agreement for shared parking; however, they have verbally offered the spaces after 3:00 PM. He indicated that he has tried to contact the owner of the Dunkin Donuts plaza without any luck. Mr. Hall inquired about the availability of street parking. He commented that he realizes the no-parking signs were placed near the building due to previous undesired activities. He asked if the City would be willing to discuss the removal of the no-parking areas so he can use them for his business. He commented that he would like to have the conditional use permit for both massotherapy/fitness center in case one or the other did not work out.

Mr. Schaedlich indicated that he could help Mr. Hall with the Walker Brothers and the issue with the parking. Mr. Hall agreed that was probably the best idea since he does not seem to be able to explain exactly what the agreement is supposed to allow. Mr. Hall indicated that he and his staff could park off site to free up some spaces. He reiterated that he would like to have the on-street parking.

Vice Chairman Komjati inquired about the number of classes and the hours of operation. Mr. Hall

indicated there would be five (5) one-hour classes per day. There was discussion about when the classes would begin since the parking area at the Walker Brothers site is not available until 3:00 PM. It was explained that as a suggested stipulation the hours of operation would only be allowed to 10:00 PM. Mr. Hall indicated they would operate within those limits if that were a stipulation.

Ms. Shoop asked if the applicant had approached Active Plumbing for the use of their parking lot. Mr. Hall commented that he has not been successful in getting a written agreement; however, they indicated they had no issue with the use of the lot. Ms. Shoop suggested the agreement could be used for staff parking only, which may alleviate the apprehension from both the owners.

There was discussion of the various parking areas and the issues that each bring for the area. Ms. Shoop inquired if the owner of the building had expressed any help in regards to the parking on the site. Mr. Hall responded that he has not.

Vice Chairman Komjati indicated that this is an issue with the approval of this conditional use permit and the suggested stipulation is to have a valid parking agreement for the site. Mr. Hall asked how he would go about getting the street parking issue looked into. Ms. McMahon stated that Mr. Hall could make a request to the City Manager's Office for this to be reviewed. She indicated that the Police and Public Works Departments would need to evaluate the street parking and make a recommendation to her regarding the feasibility of street parking.

Vice Chairman Komjati reviewed the other recommended stipulations with the applicant. The stipulations are that a parking agreement per 1137.05 be obtained and executed with a neighboring property owner; that the Conditional Use Permit shall not be transferable to another party; and the hours of operation for the approved uses shall cease by 10 PM each evening. Mr. Hall indicated that his barber salon hours are from 9:00 AM to 9:00 PM daily and he will work in those parameters.

Vice Chairman Komjati asked if there were any comments from members of the audience. Ms. Diana Hall, 118 Barley Drive, Painesville, indicated that she and her daughter are excited about the Zumba Classes and they have worked hard with the instructor to make this a good thing for the neighborhood.

Vice Chairman Komjati asked if there were any other comments. There being none, he asked if members of the Commission had any additional comments or questions. The Commission indicated they were comfortable with the suggested stipulations. Vice Chairman Komjati asked for a motion. Motion by Motion by Ms. Shoop, seconded by Mr. Temming, to approve Refusal No. 2206 for a Conditional Use Permit at 266 Richmond Street allowing exercise & fitness/Massotherapy with the following stipulations: **1**. That a parking agreement per 1137.05 be obtained and executed with a neighboring property owner; **2**. That the Conditional Use Permit shall not be transferable to another party; **3**. The hours of operation for the approved uses shall cease by 10 PM each evening. On roll call, Ms. Shoop, Mr. Eade, Mr. Temming, and Vice Chairman Komjati, answered "yes". Motion carried.

TABLED BUSINESS:

Vice Chairman Komjati moved onto the next item. He indicated the tabled item has to be removed from the table prior to Planning Commission action. He asked for a motion to remove Refusal No. 2203 for a Conditional Use Permit from the table. Motion by Mr. Temming, seconded by Ms. Shoop to remove Refusal No. 2203 from the table. Vice Chairman Komjati asked the secretary to call the roll. On roll call, Mr. Eade, Mr. Temming, Ms. Shoop, and Vice Chairman Mr. Komjati answered "yes". Motion carried.

He asked the secretary to read the Public Hearing Notice.

REFUSAL NO. 2203 CONDITIONAL USE PERMIT REQUEST
Applicant/Owner: Alveno Parker
Location: 407 Elm Street (Parcel Number 15-A-005-0-00-016-0)
District: B-1 Business/Residential District
Section: 1143.06 (a)

The City of Painesville has received an application from Alveno Parker for a Conditional Use Permit. The applicant is proposing to construct a Single Family Home at 407 Elm Street (Permanent Parcel Number 15-A-005-0-00-016-0). The property is located in the B-1 Business/Residential District. Section 1143.06 (a) requires a conditional use permit for Residential uses as permitted in the R-2

District to be approved by the Planning Commission.

Vice Chairman Komjati asked the applicant to speak on this request. Mr. Alveno Parker, 7418 Primrose Drive, Mentor, indicated he purchased the land with the plans to build a home to add value to the neighborhood. He has spoken with Mr. Schaedlich in regards to the type of home that would be suitable for the lot. The lot is smaller and they determined a 3-bedroom ranch home with a 1-car garage would fit within the required setbacks. The intent is to build the home and have it as a rental unit.

Vice Chairman Komjati asked if potential tenants have been determined. Mr. Parker stated that he has spoken with Lake Erie College students and they have voiced their interest in renting the home. Vice Chairman Komjati asked who would build the house. Mr. Parker stated that he would be the contractor. He explained that he has a construction background and he built a home in Perry. This will be his first home to build from the basement up by himself. Vice Chairman Komjati asked what the proposed rental fee would be for the home. Mr. Parker responded he believes he can get $700 to $1,000 a month for rent for a new home.

Ms. Shoop asked if there were any questions or concerns from the surrounding area. The secretary indicated that no calls or letters were received on this request. She asked for clarification on the setback plan that was given and the requirements for the building. Mr. Schaedlich indicated that the property is located in the B-1 Business/Residential District. He indicated that the zoning is not changing. The request is to allow a residence within the B-1 District, which requires a conditional use permit to be approved. There was discussion of the requirements for a new single-family home in the B-1 District.

Vice Chairman Komjati asked Mr. Schaedlich if he had any other comments on this request. Mr. Schaedlich commented on the site. The building that was there was cleaned up and the EPA report supports that however, there is no information on the soil conditions at the site. Mr. Parker replied he had spoken to a representative at HZW. They are working on finding the file for this address to verify the soil testing at the site. Mr. Schaedlich commented that if the paperwork were not located the soil test would have to be done to verify the site is clean. Mr. Parker indicated that he understands and is prepared to have that done if needed.

Vice Chairman Komjati asked if Mr. Parker was aware of the City's Rental Registration Program and the Crime Free Housing Program. Mr. Parker stated that he has been given the information on the requirements.

Discussion regarding the maintenance of the house and Mr. Parker's approach for renting the facility continued. Ms. Shoop asked if a condition could be placed on this request to not allow multi family. Ms. McMahon explained that this lot could not be used for a multi family structure since it does not meet the minimum requirements for the total square footage.

Vice Chairman Komjati asked if there were any comments or questions from the audience. There being none he asked for a motion on this item. Motion by Mr. Temming, seconded by Ms. Shoop, to approve Refusal No. 2203 for a Conditional Use Permit allowing a residential use at 407 Elm Street with the following stipulations: **1**. Certification from the United States Environmental Protection Agency that either the appropriate soil testing has occurred and/or remediation are acceptable; **2**. Submission of corrected building plans and a site plan; **3**. The applicant shall register the property with the City's Rental Registration Program and attend the Crime-Free Housing Seminar. On roll call, Mr. Temming, Ms. Shoop, Mr. Eade, and Vice Chairman Komjati, answered "yes". Motion carried.

ADMINISTRATIVE REPORT:

- Nonconforming Uses – Potential Rezonings – Discussion/recommendations.

Mr. Schaedlich began discussion with property at 134 Pearl Street. The proposal is to rezone the property from R-1 Single Family to R-2 Multi Family. He stated that soon after the letters were sent out to the nonconforming residential properties, he was contacted by the property owners, Thomas and Ellen Nelson, who had purchased the building in 2001 and were unaware that it was a nonconforming use. This was a major issue for them as the house was an investment purchase towards their retirement. Of particular concern was the fact that if the structure were to be damaged to an amount greater than 50% of its replacement cost, they would have to convert the structure to a single family home. They wish to be included in the R-2 Multi-Family Residential District.

Mr. Schaedlich explained that the subject property is located on the south side of Pearl Street, one lot

west of South State Street. The zoning to the west of this lot is R-2, Multi-Family Residential as is most of the north side of Pearl Street including the area directly across the street from 134 Pearl Street. As this property has been a nonconforming use since the implementation of zoning in the City, and the structure is maintained in good repair, rezoning this parcel from R-1, Single Family Residential to R-2, Multi-Family Residential makes sense.

Vice Chairman Komjati indicated that he had no objection to this request. He asked if these would require action from the Commission and if they would be dealt with one at a time. Ms. McMahon indicated that currently there is no action required by the Commission. The thought was to bring them forward to the Commission to make you aware of the areas that would be scheduled for rezonings. If the Commission were uncomfortable with any of the suggestions, those areas would be pulled out for further evaluation.

Ms. Shoop asked about the memorandum referencing the nonconforming properties. Ms. McMahon stated that at the last City Council meeting Councilman Flock asked for an amendment or provision that would allow the single-family nonconforming uses to be protected during the transition as the City is reviewing the remaining rezonings. She stated the proposal was presented to City Council. A provision would need to be put in place to eliminate having the portion of the code that prohibits the reconstruction of a nonconforming use if damaged more than 50%. City Council would like some suggestions from the Commission on how to address this concern. The concern is by removing the provision it affects all nonconforming uses, not just the residential uses. There was discussion about the various issues this change has on all uses due to the minimum threshold that now exists in the zoning code for building a new structure. Most of the uses that would become conforming by this change would not be allowed to be rebuilt exactly as they are today. Administratively this is a concern since this change has a larger impact on the uses.

Mr. Schaedlich moved onto the next area referred to as Area #5. He stated this area encompasses a portion of North State Street in the area north of East Prospect Street and contains commercial, institutional and residential uses on the east side of the street. The section of North State Street on the west side of the street has a commercial use at East Prospect Street and at the north end at Canfield Drive, La Hispania. Everything else in between is used residentially. All the residentially used parcels in question are outlined with a heavy black line on Map 5. All of these properties have been commercially zoned since zoning was instituted in the City in 1927, but have always been used residentially. Of the six lots proposed to be rezoned, four of the dwellings are single-family homes, one is a duplex and one is a three-family dwelling. The size and configuration of these properties do not readily lend themselves to commercial development. Emphasis may be better placed on reinvestment into this neighborhood to enhance and strengthen the residential character of this section of North State Street, especially since that the rest of the block; East Jackson/Owego/Canfield/N. State Street is predominately residential in use and is zoned R-1, Single Family Residential. Rezoning to R-1 would be appropriate based on the use of the properties. Mr. Schaedlich asked if the Commission had any questions. There being none he continued his presentation.

Mr. Schaedlich stated the next area is referred to as Area #6. This rezoning is only for one parcel, 430 Button Avenue. This property had been zoned industrial since 1927. However, by 1960, the zoning was changed to R-3, Single Family Residential. With the update of the Zoning Code in 1984, the single-family designation was changed from R-3 to R-1. The zoning of the property remained R-1 until the next update of the Zoning Code in 1991. At that time, the zoning on the property was changed back to M-2, Industrial. Prior to the zoning change from R-1 to M-2 taking effect, in late 1990, the property owner applied for, and received, a building permit for a single family home. The house was completed in 1991. The house remains even though the zoning on the property was changed to M-2, Industrial. The house, being relatively new, is most likely going to remain there for some time. It is to the rear of homes that face Button Avenue, but has direct access to Button Avenue through a lot owned by the owner of the house. R-1 residentially zoned property is to the south and west of this subject property. M-2, Industrial zoned property is to the east, but a significant area of trees provides a buffer. Mr. Schaedlich explained that this is a case similar to the Johnson Apartments at 825 Bank Street that the Planning Commission recently reviewed and recommended approval for rezoning. The rezoning of the property to reflect its actual current use would be appropriate. There being no questions, Vice Chairman Komjati asked Mr. Schaedlich to continue.

Mr. Schaedlich indicated that area #7 is located in the north triangle of the Five Points Intersection (S. State St. [former State Route 86]; Bank St. [State Route 84]; and Cumings Road). The rezoning consists of one lot. The lot was zoned residential in 1950, and the area south of it to the point was in

Painesville Township. By 1960, the actual point of the north triangle was annexed to the City. The zoning on the subject property was split. The eastern half of the lot was R-3, Single Family, while the west half was zoned B-2, Community Business. The area to the south of the subject property to the point was also zoned B-2. In 1984, an update to the Code changed the zoning of 713 South State Street to R-1, Single Family. The property south of it to the point remained B-2, but was now known as B-2, General Business.

Although the property at 713 South State Street is currently zoned R-1, Single Family, an automotive repair shop, South State Garage has operated at this address for decades. When the nonconforming use letters were sent out back in early June of this year, the property owner, Richard Krotz was shocked to learn that their property was not properly zoned for their business use and that their business was nonconforming. Mr. Schaedlich stated they were also very concerned that, as a nonconforming use, should the building be damaged or destroyed to an extent greater than 50% of its replacement cost, the business could not be rebuilt. The business is their livelihood. Mr. Krotz's daughter, Jeri has called on her father's behalf on a couple of occasions to find a way to rectify the situation. I informed her of the process the Planning Commission has undertaken to review nonconforming uses and their zoning. Interestingly, the parcel was already part of the package of potential rezonings. The rezoning of this parcel would be appropriate.

Mr. Schaedlich moved onto Area #8. The properties of this proposed rezoning have been commercially zoned since zoning was instituted. For all the years prior to 1984, when a major Zoning Code update was undertaken and approved, residential uses were permitted within commercial districts. In this instance, the dwelling at 94 Elevator Street was built in 1925, and the 27-unit brick apartment building, now known as the Edgewood Club Apartments, was built in 1962. The Zoning Code change in 1984 took out the pyramid zoning that allowed residential uses in commercial districts and replaced it with exclusionary zones. The exclusionary zones provide for residential uses in residential districts, commercial uses in commercial districts and so on. These three parcels abut an R-2, Multi-Family Residential District immediately to the east. Again, the purpose of this rezoning is to reflect the use of the properties and to remove them from nonconforming status.

Mr. Schaedlich asked if there were any questions on any of the parcels being considered for rezoning. There being none, he informed the Commission that the next step will be to notify the property owners and schedule the public hearings for the rezonings.

Vice Chairman Komjati stated the next item under the Administrative Report deals with suggested zoning fees. He asked Ms. McMahon to address this item.

- **Zoning Fees** – Discussion/recommendations.

Ms. McMahon indicated that City Council has asked the Administration to consider the implementation of various code changes and fees associated with those fees. The Commission has received copies of the proposals that were submitted to Council at the end of last year. Those to be reviewed by the Commission are associated with the zoning code. Ms. McMahon explained briefly the areas with the suggested changes. The Board of Zoning Appeals application fee to increase by $25 making it $125; the Rezoning Fee to increase from $200 plus $25 to $250 plus $30 per lot; Conditional Use Permit application to increase from $125 to $150; other items before the Commission from $25 to $40; certificates of appropriateness to increase from $10 to $25; and the appeals of the Certificate of appropriateness to increase from $30 to $50.

The other change discussed was related to signage. The difference in the pricing of the fee schedule was explained. The square footage calculation was eliminated and a base fee based on the type of sign was created. Ms. McMahon indicated the Commission received a spreadsheet outlining the surrounding communities' fee structure. The fees other communities are charging are quite a bit more than the current City of Painesville's fees. This is a legitimate fee increase based on that fact. The last time there was a fee increase was in 2004. Vice Chairman Komjati asked if there were any comments or questions from members of the Commission. There being none, Ms. McMahon indicated this would be placed on the next Planning Commission Agenda for action.

Ms. McMahon indicated that she would also like to discuss the other code changes that have been referred to the Planning Commission by City Council. The first is a change to the nonconforming section of the code that had already been discussed. The second is a change to the oversized/commercial vehicles in residential areas. This was a recent code change that the Commission had reviewed and recommended to City Council in March of this year. The section of code was changed to identify dimensions of vehicles along with a listing of commercial vehicle types. There was discussion regarding the interpretation issues that have been experienced since some

believe it to be unclear of what is allowed. Ms. McMahon gave four (4) options as possible wording changes. She asked the Commission to review the four options as possible changes and provide their recommendation. There was discussion on the different scenarios for each of the options. Ms. McMahon stated that since more review is necessary this item would remain on the Agenda for more discussion.

Ms. McMahon commented that the last item for discussion is proposed changes to 1133.01 relating to buffering requirements for Industrial zoned areas next to Residential areas. She stated this issue was also brought forth by City Council during the Stage Avenue rezoning request. Under this section of code the minimum requirement for buffering commercial and industrial uses next to residential are 25-feet for commercial and 35-feet for industrial with respect to the building setbacks. The Administration has reviewed neighboring communities and the setback requirements in their code. The buffers range from 35-feet to 75-feet depending on what is being constructed. The 35-foot minimum that Painesville has is on the small side. Ms. McMahon indicated that our industrial and commercial properties are not that large. This will need further research upon any recommendation to the Commission.

Vice Chairman Komjati thanked the staff for all of the information provided to the Commission. He asked if there were any other matters to come before the Commission.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

Mr. Lyons stated that copies of Mr. Winfield's appeal were included in the Planning Commission packet. He indicated the court upheld the Commission's decision to deny Mr. Winfield's application for a plat. Mr. Lyons stated that Mr. Winfield has the opportunity to appeal this decision.

The Commission received the Code updates in their packet. It was explained that these are replacement pages for the Codified Ordinances that each member should have.

ADJOURNMENT

Vice Chairman Komjati asked if there were any other items to be discussed. There being no other items to come before the Planning Commission the meeting was adjourned.

Lynn M. White, Secretary	David Komjati, Vice Chairman