PLANNING COMMISSION MEETING

October 9, 2014

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Chairman Komjati called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were, Ms. Leah Huth, Ms. Carol Fleck, Ms. Christine Shoop and Chairman David Komjati. Mr. Mark Wainwright was absent. Also present were, City Manager Anthony Carson, Assistant City Manager/Community Development Director Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Chairman Komjati asked for additions or corrections for the Planning Commission Meeting of September 11, 2014. There being none, he asked for a motion. Motion by Ms. Fleck, seconded by Ms. Shoop to accept the Planning Commission Meeting Minutes from September 11, 2014 as written. Chairman Komjati asked the secretary to call the roll. On roll call, Ms. Fleck, Ms. Shoop, Ms. Huth, and Chairman Komjati said "yes". Motion carried.

Chairman Komjati explained that a motion was necessary to remove the tabled item listed on the Agenda.

TABLED BUSINESS:

- **Heisley Park Residential Subdivision Phase XVI -** Preliminary Plat extension request – consisting of 26 lots and approximately 7.1711 acres of land.

Motion by Ms. Shoop, seconded by Ms. Huth to remove Heisley Park Residential Subdivision Phase XVI from the table. On Roll call Ms. Shoop, Ms. Fleck, Ms. Huth, and Chairman Komjati said "yes". Motion carried.

Chairman Komjati asked Assistant Law Director James Lyons to present the matter at hand. Mr. Lyons explained there are two matters that go with this Preliminary Plat extension request. The first is approving the extension of Preliminary Plat for Phase XVI. He explained that preliminary plats under the City's code expire in one-year unless stipulated otherwise. This plat has expired as it was approved on May 20, 2013 and would need to be extended. The developer, Mr. Mortell, has asked for the plat to be extended. Mr. Lyons further explained that when a preliminary plat is granted, under the City's Ordinances the final plat is to be filed within one-year that can also be granted an extension. The City Administration is asking to extend the preliminary plat for a period that would end on November 15, 2014. In addition, to extend the time for Mortell and Associates to file the final plat so that the final plat could be considered filed by August 18, 2014 that is the date the City received it. Mr. Lyons stated that in order to grant the extensions, the City has made eight (8) stipulations that should be considered. The Planning Commission has been given copies of the stipulations. Mr. Lyons stated the stipulations have been agreed to by the developer, Mortell and Associates, so this is an agreed recommendation of the Planning Commission. The City Administration believes this is in the best interest of the City, Development and its residents.

Mr. Lyons went through the eight (8) stipulations.

1. The Developer shall comply with the City Manager's requirement that the Developer provide the City a restoration bond in the amount of $111,000.00 by November 3, 2014 in order to cover damages as defined under Painesville Codified Ordinance Section 1111.03.

2. That the final plat for Phase XVI will not be approved unless the restoration bond referenced above in the amount of $111,000.00 is paid by November 3, 2014.

3. That the final plat for Phase XVI will not be approved until a maintenance bond for Phase XVI in the amount of $72,714.00 is paid by November 3, 2014.

Mr. Komjati asked what is the difference between a restoration bond and a maintenance bond. It was explained that a maintenance bond is for a road that has been recently built. There is a three-year period for fixing problems that may occur. The developer is responsible for repairs. If they are not repaired, the City can then turn to the bonding company to have the issues addressed. The restoration bond is to insure repair of any damage done to existing street pavement used as a haul road for any development or construction within the City or using City streets. The large equipment used for construction purposes can potentially cause damage to the roads. The $111,000 is designed to allow the city to have money on hand in the event there is damage. If the developer had decided to build a separate road then a restoration bond would not be necessary since the city streets would not be used.

4. That the final plat for Phase XVI will not be approved until a bond in the amount of $50,000.00

for the uninstalled improvements for Phase XVI is paid by November 3, 2014. The uninstalled improvement for Phase XVI is the top coat of asphalt on the roadways in Phase XVI.

5. The Final Plat approval for all remaining phases in the Heisley Park Subdivision shall be conditional upon compliance with all other applicable statutes and ordinances of the City including (a) the posting of a maintenance bond for each phase in the amount specified in ordinances and (b) a restoration bond for each phase in an amount determined by the City Manager being filed prior to the date of the Final Plat approval by the Planning Commission.

6. Preliminary Plats for the remaining phases of Heisley Park will not be approved by the Planning Commission until the City and the Developer (a) agree in writing to the location of the five acre park in the remaining phases (or on other land that is acceptable to the City) (b) the date when the five acre park will be dedicated to the City and (c) that the City will have a legal action for specific performance to have this land conveyed to the City if the land is not dedicated to the City by the date specified herein.

Mr. Lyons explained, as most of the Commission is aware that in 2001 as part of the development agreement there was to be a public park. Over the years that issue has not been resolved. Now that the development is nearing the end with only four phases left this needs to be worked out. The developer has been operating in good faith and there have been discussions as to where to put this park. The city needs to have the location of the park worked out in order to move forward so an agreement needs to be put in place so both parties have a focus on this issue in order for this to be resolved.

7. The City shall file with the County Recorder's Office an Affidavit of Title and/or Update to the Agreement that was filed for this Development on April 9, 2001 with the Lake County Recorder's Office, Document No. 2001R012738, that indicates as of October 9, 2014, the City and the Developer have not agreed on the location of the five acre park for the City and that the City claims the right to have a five acre park developed in the remaining phases of the Heisley Park Development.

8. The filing date of the Final Plat for Phase XVI was August 18, 2014. The Final Plat must be approved or denied by the Planning Commission on or before November 15, 2014 unless the Developer requests an extension of this 90-day period. The Preliminary Plat shall expire on November 15, 2014.

Under the ordinances of the City of Painesville when a final plat is filed, if the Planning Commission does not act within 90 days it is deemed approved. Unless the developer asks for an extension, the plat cannot be acted on. The lots have already been improved and the lots are ready to be sold out with houses to be built on them. The developer is willing to comply with the stipulations in order to move forward with the if for some reason they do not ask for the extension and complete the stipulations, the city will ask to have this plat denied. The developer will have to start the process over, ask for a 30-day extension, or file with common pleas.

Mr. Lyons stated that he brings up the legal aspect of this matter due to the fact the City, the Developer, Mr. Mortell, who is present, others had a great meeting, and they want to move forward. They are asking for the extension based on all the stipulations mentioned.

Chairman Komjati asked if there were any comments or input from the developer. Mr. Mortell responded that he is in agreement with Mr. Lyons. They had a productive meeting and wish to move forward.

Komjati asked for clarification of the filing date for the plat. Mr. Lyons stated that if all items were completed by the November meeting then the City would recommend approval. He indicated that previously the city approved phase 20. That will need an extension also and they will ask for an extension. That will be another matter to come before the commission and it is not part of this request. Komjati if something happens and the items are not done to the satisfaction of the city by November 15 then what happens. Mr. Lyons stated the developer could ask for an additional extension at that time for the approval of the final within the 90-days. If an extension were not requested then it would be left to a vote by the Commission.

Komjati asked if there was any other discussion. There being none, he asked for a motion to approve the extension of Heisley Park Subdivision Phase XVI. A motion was made by Ms. Fleck, seconded by Ms. Shoop to approve the extension of the Preliminary Plat Phase XVI and the extension of the right to file the Final Plat after the one-year period set forth in Ordinance 1111.07 with the conditions outlined previously.

There being no further discussion, the secretary called the roll. On roll call, Ms. Huth, Ms. Fleck, Ms. Shoop, and Chairman Komjati answered "yes". Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

Certificate of Appropriateness – Demolition Request – Downtown Design Review District
Applicant: J. Federico/Fast Auto & Truck
Location: 61 South State Street – Permanent Parcel No. 15-B-001-0-00-009-0

Chairman Komjati asked Mr. Federico to speak on behalf of the request. Mr. James Federico, 71 South State Street, indicated he would like to demolish the building at 61 South State Street and place a temporary trailer. In order to sell cars the dealer's license requires a separate entrance and a separate office on the site. Mr. Federico commented that he plans to renovate/remodel the current building at 71 South State Street in order to have everything under one roof. He would like to do this within a year or year and a half. He indicated that he is considering eliminating the two front bays and make that the office area with a separate entrance. This would allow more space. At that point, he would need to figure out if he wants to expand the current building at 71 South State Street from the back or along the side where this structure is currently.

Chairman Komjati indicated there were recommended stipulations regarding this request submitted by the Administration. He asked if Mr. Federico had a chance to review them. Mr. Federico indicated he has reviewed the stipulations. Chairman Komjati went through the stipulations; permits must be obtained prior to demolition; the site shall be graded and seeded with grass. Mr. Federico stated that the site would not be seeded as he plans to use the area for parking. The site will be graded to make it suitable for parking. Chairman Komjati stated that well maintained would be acceptable as a stipulation. Mr. Federico stated that parking would be for both the tire sales business and the cars that are being sold.

Chairman Komjati asked if there were any questions from the Commission members. Ms. Shoop asked how the trailer portion of this request would work. Mr. Schaedlich explained that the matter before the commission is strictly for the certificate of appropriateness for the demolition of the structure at 61 South State Street. The temporary trailer will be brought forth to the Commission at the next regularly scheduled meeting in November. Mr. Federico will need to submit a site plan and other material that pertains to the placement of the trailer. The temporary trailer can only be approved for a twelve-month period. This should allow Mr. Federico time to come up with a permanent plan for the site. He may request an extension if he feels he needs additional time.

Chairman Komjati asked if there were any comments from the Administration. Mr. Lyons stated that since the applicant plans to place a temporary trailer, he wondered if this was allowed and if this was discussed with the City Planner. Mr. Schaedlich indicated they have talked about the trailer. He explained that an application would be necessary for the trailer. The temporary structure and use would require Planning Commission action in order for it to be allowed. Mr. Lyons commented that the applicant may get the trailer approved and it may not be approved. He made sure that Mr. Federico understood that the proposed trailer might not be approved. He cautioned that removal of the structure prior to obtaining approval on the trailer might cause problems. Mr. Federico stated that he would figure that out once he goes through the process. He will do that before he demolishes the structure. Ms. Shoop asked if being in the historic district has any impact on the trailer. Mr. Schaedlich stated being temporary in nature with permanent plans forth coming it should not be an issue. Mr. Lyons commented that he wanted to be sure that the applicant was aware of the situation.

Chairman Komjati asked if there was a motion to approve the certificate of appropriateness for the demolition of the structure at 61 South State Street.

Mr. Arthur Shamakian asked if public comment would be taken at this time. Chairman Komjati indicated this is an administrative matter and public comments are normally not taken. Mr. Shamakian stated that he wanted to state that this structure does not have any historic significance.

Ms. Shoop motioned to recommend approval of the Certificate of Appropriateness for the Demolition of the structure at 61 South State Street located in the Downtown Design Review District with the following three stipulations: 1. All permits must be obtained prior to demolition in accordance to City Regulations; 2. The demolition site shall be graded and seeded with grass and other landscaping materials as approved by the Administrator; 3. The parking area on the demolition site shall be restored/maintained after the demolition occurs. Ms. Huth seconded the motion. There being no further discussion the secretary was asked to call the roll. On roll call, Ms. Huth, Ms. Fleck, Ms. Shoop, and Chairman Komjati answered "yes"; Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

Mr. Shamakian, Steele Mansion, 348 Mentor Avenue, stated that he attended the City Council Meeting on Monday, October 6. He stated the demolition of 239 Mentor Avenue was discussed. He realizes that this

matter will be coming to the Planning Commission at next month's meeting. This structure is within the Mentor Avenue Historic District. He has done research on this house. He believes that tearing down a house in the middle of this historic district is not a good idea. There will be significant opposition to this proposal. The book created by Mr. Callender gives historic documentation on this home. The home was built in 1836. Mr. Lyons inquired if this demolition was coming before this board. Mr. Schaedlich indicated that a public hearing is scheduled for the November 13 Planning Commission Meeting. Mr. Lyons asked Mr. Shamakian to speak about the demolition at that meeting. Mr. Shamakian agreed, he commented that he wanted to give the Administration time to come up with an alternative than using the funds available to demolish the home.

There being no other business to come before the Commission a motion to adjourn was made by Ms. Shoop, seconded by Ms. Fleck. On roll call, Ms. Fleck, Ms. Shoop, Ms. Huth, and Chairman Komjati answered "yes". Motion carried.

Lynn M. White, Secretary

David Komjati, Chairman