PLANNING COMMISSION MEETING

November 13, 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, Mr. Mark Wainwright, Ms. Leah Huth, Ms. Carol Fleck, and Chairman David Komjati. Ms. Christine Shoop 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 October 9, 2014. There being none, he asked for a motion. Motion by Ms. Fleck, seconded by Ms. Huth to accept the Planning Commission Meeting Minutes from October 9, 2014 as written. Chairman Komjati asked the Secretary to call the roll. On roll call, Ms. Huth, Mr. Wainwright, Ms. Fleck, and Chairman Komjati said "yes". Motion carried.

Chairman Komjati asked the Secretary to read the notice for the first item listed on the Agenda.

NEW BUSINESS: (Public Hearing Item)

Section: **1146.13 Historic Preservation Districts Demolition and Moving of Structures**
Applicant: City of Painesville
Owner: Belotto Nadia Helena Trustee of the Robert C Baetzel REV TR
Location: 239 Mentor Avenue (Parcel Number 15-C-003-0-00-027-0)
District: R-2 Multi-Family District; Mentor Avenue Historic Preservation District

The City of Painesville has identified the structure located at 239 Mentor Avenue, Permanent Parcel Number 15-C-003-0-00-027-0, owned by Belotto Nadia Helena Trustee of the Robert C. Baetzel REV TR, and it has been found to be in an unsafe condition, and it is determined that this structure needs to be demolished. In accordance to Section 1146.13 (a) of the Codified Ordinances of the City of Painesville; the demolition of all or part of a designated historic structure or of an existing building within a designated Historic Preservation District shall require the approval of the Design Review Board.

Mr. Schaedlich explained that one of the duties of the Planning Commission is to act as the Design Review Board of the City per Section 1146.05 of the Planning and Zoning Code. This Public Hearing has been scheduled to review the proposed demolition of the dwelling at 239 Mentor Avenue. The dwelling is located in the Mentor Avenue Historic District. As such, the Commission will review the proposed demolition under the design Review Guidelines established in the Planning and Zoning Code for Historic Preservation Districts Sections 1146.10 through 1146.17 of the Planning and Zoning Code.

More specifically, the Commission will focus on the guidelines of Section 1146.13: HISTORIC PRESERVATION DISTRICTS DEMOLITION AND MOVING OF STRUCTURES. Subsection 1146.13(a) states: The demolition of all or part of a designated historic structure or of an existing building within a designated Historic Preservation District shall require the approval of the Design Review Board in accordance with the following procedures, upon application by a property owner. (b) The Design Review Board shall approve the demolition if any of the following circumstances are found to exist: (1) Demolition has been ordered by a Public Official for reasons of public health and safety (in case of imminent danger, such demolition may occur prior to approval by the Design Review Board); and, (2) The demolition is requested for an inappropriate addition or a non-contributing building and the Design Review Board determines that the demolition will not adversely affect the character of the area, including the appearance of the streetscape in terms of the overall scale, rhythm design or unity; or (3) The demolition is consistent with plans or policies adopted by the City Council. (4) In approving the demolition, the Design Review Board shall state the basis for approval, pursuant to one of the above findings. Mr. Schaedlich explained that in this case, items #1 and #4 were found to exist in this situation and items #2 and #3 of Section 1146.13(b) do not apply. The following items were submitted to the Commission for their review: the Demolition Order for the structure at 239 Mentor Avenue; two (2) Code Enforcement violation letters, along with internal and external photographs indicating the existing condition of the structure and property.

Mr. Schaedlich explained the Assistant City Manager/Community Development Director, Doug Lewis, would provide the process for listing a property for demolition with the Lake County Land Reutilization Corporation. Mr. Lewis will also present the findings of the inspection of the dwelling and will provide a slide show supporting the findings.

Mr. Lewis stated that in addition to the information provided to the Commission in their packet, he is submitting for the Commission's review, correspondence from trustee Nadia Belotto for the status of the structure at 239 Mentor Avenue. Additionally there is information provided by the Steele Mansion and emails received to date regarding the public's view of the proposed demolition. Mr. Lewis gave the Commission an overview of the process for determining property to be demolished. During the presentation the following information was given: 1) Housing/Code Enforcement Inspectors to identify properties that may be candidates for demolition due to extended vacancy and/or obvious Property Maintenance Code (PMC) violations; 2) If it is obvious (i.e., roof caved in combined with vacancy), we will submit for demolition to the Lake County Land Reutilization Corporation; 3) If it is not obvious, but has been vacant for an extended period of time and/or has PMC violations on the outside, we obtain an administrative search warrant to enter the home; 4) Once the administrative search warrant is obtained, Housing Inspectors inspect the properties to determine if they should be condemned. To be condemned, it must be a health, sanitary or safety issue – mold, structural issues, non-working utilities, foundation issues, etc.; 5) Housing Inspectors then reviewed the list of homes and ranked them from worst to best. Once reviewed, discussion occurred as to why they were the worst. For example, the house that caught on fire at the corner of Skinner and Sanford was on the list, was inspected, and was determined not to be as bad as some of the other properties. 6) After compiling the list of worst properties, the required process was followed through the Lake County Land Reutilization Corporation. a) Conduct a title search of the property to determine lien holders and any potential issues; b) Notify all property owners and lien holders that the property has been condemned and will be demolished; c) Advertise in a paper of general circulation for six (6) weeks; d)Present resolutions to City Council for approval or denial. Historic Districts require approval of demolition from Planning Commission prior to being presented to City Council.

Mr. Lewis indicated that nineteen (19) properties were identified by Housing Inspectors for potential demolition in June 2014. Administrative Search Warrants were obtained for seven (7) of the nineteen (19) properties and two owners provided permission to perform inspections. Two (2) property owners opted to demolish their properties on their own. Owners of two (2) of the properties sold the properties to investors who planned to rehabilitate the properties. One (1) owner obtained property from the bank and planned to rehabilitate it. The result was there were nine (9) inspections performed and seven of those scheduled for demolition including 239 Mentor Avenue with two (2) demolished by owner and two (2) in process of renovation.

Mr. Lewis presented the Commission with photographs of the home under discussion. He explained before making the decision to approve or deny the request, the Commission needs to ask the following questions. Does the City leave the home to deteriorate the neighborhood with no guarantees that someone will purchase or rehab the home? Does the City continue to work with Bank of America and give them more time to sell the property? Does the City let the structure sit for another two to three years while more damage occurs? Does the City forfeit the 100% funding for demolition that is being provided by the Lake County Reutilization Corporation? Mr. Lewis informed the Commission that he spoke with Mr. Rogers regarding the available funding for this property. The one hundred percent (100%) funding will be in place should the Planning Commission and City Council approve the demolition, even if the home will not be demolished until next year.

Mr. Lewis explained some of the historical significance of the home. The structure was built in 1836; part of Land Grant given to Revolutionary War Generals as payment for their efforts; the porch and exterior architectural elements added in late 1800's; in 1936 the house was purchased by Anna Giblin; her son, James Cross Giblin, went to Harvey High and is a well know author of children's books; the structure is located in the Mentor Avenue Historic District which is listed in the National Register of Historical Places; New Connecticut Style Home; remaining architectural features include front windows, exterior architectural elements, inside doors and framing. Mr. Lewis explained that much of this information was provided from a book written by Mr. James Callender about the Mentor Avenue Historic District.

The Commission was made aware of some of the diminished historical significance of the home. Vinyl siding was installed on left side of the building, there have been some replacement windows installed, and there has been removal of architectural and functional features of the home such as fireplaces, kitchen, plumbing, carpeting, and the wrought iron fence in the front of the yard. The reasons the home was condemned are due to the buttress walls failing in the basement, there is minimal rot and deterioration, porch support post leaning, posts and beams in basement require additional support, the floors are bouncy due to 24" spacing of beams, there is visible mold in attic area over east wing, and the Electrical/Plumbing/HVAC needs replaced. Mr. Lewis presented photographs of the interior of the home for the Commission to view.

Mr. Lewis explained to the Commission that City Council has a pending Resolution for this property.

The Resolution is to proceed with the demolition of an unsafe structure located at 239 Mentor Avenue in the City of Painesville, Lake County, Ohio, and to request the assistance and cooperation of the Lake County Land Reutilization Corporation. This matter has been tabled by City Council to allow the Public Hearing to take place with the Planning Commission. The recommendation of the Planning Commission on this matter will be forwarded to City Council so they can act on this matter.

Mr. Lewis continued by explaining the best-case scenario would be that Bank of America lists this historic home in a reasonable period of time and an individual steps forward to rehabilitate the home. The worst-case scenario would be the property remains with Bank of America and they do nothing with it; it deteriorates further as a result; the City of Painesville loses 100% funding for the demolition and abatement through the Lake County Land Reutilization Corporation.

Ms. Fleck asked what the costs for the abatement and demolition are. Mr. Lewis replied the costs range from $10,000 for the asbestos abatement and around $8,000 for the demolition. He explained some of the previous costs associated with this program. The most expensive house cost around $45,000 for the abatement and demolition. There was discussion of the possible out of pocket expenses for the City if the 100% funding is not taken advantage of from the Lake County Land Reutilization Corporation.

Chairman Komjati inquired that if the Commission decides to hold off on the demolition, could this property be placed on the list for the program later. Mr. Lewis indicated that it could be placed back on the list. The funding would be only at a 50/50 match later. The only option for the 100% funding is to have the property qualified before the end of the year.

Chairman Komjati explained the property is zoned R-2 and, if demolished, the types of uses that could be placed on this property include an apartment building. He asked what other uses are allowed in this district. Mr. Schaedlich replied the R-2 District allows for single-family residential, duplexes, multifamily residential, places of worship, schools, public and private, recreational facilities, and elderly housing. Additionally, the conditional uses are bed and breakfast, commercial parking lot, day care or nursery school, hospitals, nursing homes, golf courses, public use, adult group homes for the elderly, and an inn. It was explained that due to the property being in the Historical District any proposed structure would need to comply with the standards outlined in the Code in reference to character, style, and proportions.

Ms. Huth asked about ownership of the property. Mr. Lewis indicated the property has not yet transferred from the Sheriff's Office to Bank of America. It is currently listed on the Auditor's site as being owned by the Trust. Mr. Lyons was asked to explain the process of foreclosures. Mr. Lyons stated the website shows on July 21 Bank of America had the first mortgage. The property was sold at two-third its value with the Bank having the only bid. The court then has to confirm the sale. The paperwork to confirm was done at the end of October. This property is very close to being placed into the name of the bank. This should be completed within a month. Once the property is in the bank's name then they will be in the position to sell the property.

Ms. Fleck inquired about the maintenance and security of the property. Who is responsible for maintaining the property if it is in foreclosure. Mr. Lewis indicated the city maintains the grass. Mr. Lyons stated that in terms of who maintains the structure once the property is transferred to the bank, they would have the same obligation for maintenance and security as any owner of property within the city. This typically applies to the outwards appearance of these properties so they do not become an eyesore to the neighborhood. Mr. Lewis stated that there is a servicer for this property; however, they have not been servicing this property.

Mr. Wainwright asked if there was an estimate of making this structure habitable with removal of the mold and repairs to the foundation. Mr. Lewis commented the City does not have an estimate. Whoever was to take ownership would need to correct the violations outlined in the memorandum and typically, they would submit the cost of those corrections for the City to review. The Members discussed the cost of renovations and what type of owner would want to invest in making those repairs. Chairman Komjati inquired about the use of Community Development Block Grant (CDBG) funds since they are to be used for blighted properties. Mr. Lewis explained CDBG funds and the type of programs they are typically used for, the siding and paint program. Additionally the amount given to the City for CDBG funds is limited and where the money is to be used is determined by City Council.

Ms. Fleck inquired about grants from the Historical Society for renovations on this property. Mr. Lewis stated that perhaps the Shamakian's would be willing to speak on that topic as they have sought funding for their project. Chairman Komjati wondered if this would be appropriate for the Commission to ask. Mr. Lyons commented that it would since they have specialized knowledge in terms of this subject matter.

Chairman Komjati asked Mr. Shamakian if he was aware of any funds available for this type of project. Mr. Shamakian indicated that there are no funds for the present single-family use. Chairman Komjati wondered if the County had funds for preservation or just demolition. Mr. Schaedlich commented that Lake County is not structured for preservation or rehabilitation. Mr. Lewis added that the Land Bank Program in Lake County is set up to allow the City the option to take properties. If the City opts not to take the property, the County takes ownership and sells them.

Ms. Fleck inquired what advantage the Bank has by not doing anything with this property. Mr. Lewis replied that he could not answer for the Bank. Bank of America has many vacant properties within the City that are not listed. There was a question about getting donations or community service programs to rehab the house. This would be difficult since the City does not own the property.

Chairman Komjati indicated that at this point he would like to open the meeting up for public discussion. He stated that it seems that everyone agrees that this property should be saved. The meeting was opened to the public and anyone wishing to speak was asked to give his or her name and address for the record.

Mr. Arthur Shamakian, 1664 North Shore Drive, Painesville, Ohio, commented the house should be saved. A 200-year old house cannot be duplicated. Mr. Shamakian stated he was surprised to see this house up for foreclosure with no bidders. The value of the property is the land and the cost of demolition. That is what the house is worth. The hope is to have someone in there that falls in love with the house. A developer would take the vacant land and put in apartments. Mr. Shamakian commented the City should leave this house and let someone come in and restore the home. He estimates the cost for renovation would be around $70,000. The Bank should allow the house to be purchased by someone to renovate the house and make it his or her home. He believes this is a great house.

Chairman Komjati stated that within the Planning Commission packet were a number of responses that were received regarding this matter. Included in the responses were comments received from Mr. Shamakian's Facebook post on 239 Mentor Avenue. Chairman Komjati asked about the postings from individuals that stated they would purchase the property and the possibility of contacting them. Mr. Shamakian indicated that he would like his wife to respond.

Ms. Carol Shamakian, 1664 North Shore Drive, stated her first comment is they need time to save this house. Once it is gone, it can never be brought back. This is one of the oldest houses in Painesville. The house needs a little repair. After working on Steele Mansion, she sees that the future of Painesville is its history. Let us make sure we save this history. This house is on a major thoroughfare and having an empty lot there would be horrible. Ms. Shamakian indicated that her daughter has been in contact with someone who is very serious about purchasing the home to renovate. She stated there were many other people who commented on saving the house. The posting received almost 11,000 hits. This history means something to Painesville. Ms. Shamakian indicated that she has plans to have monthly meetings at the Mansion to facilitate workshops for people that need direction in historic renovation.

Chairman Komjati commented on the fact that if the property is saved and nothing happens to make it usable and it continues to deteriorate, then what. Ms. Shamakian stated the house is not even available right now for anyone that could purchase the property to purchase the property. There was discussion by the Commission on the available funds currently and the type of funding that would be available next year. The options of both were considered by the members.

Chairman Komjati asked if there were any comments from members of the audience. Mr. Angelo Cimaglio, 477 Owego Street, stated the only reason to tear down the house is that there is free money available. There are worse properties in Painesville that should be torn down. Over the years, beautiful homes have been torn down for a multitude of reasons. The City talks about their Historic Downtown, the Mentor Avenue Historic District, and the Bank Street Historic District. The historic areas have to be protected and this house needs time for someone to invest in it.

Mr. John Murphy, 127 Chestnut Street, indicated that he has background information on the money that is placed into the Land Bank. That money comes from the gambling casinos in Toledo, Cincinnati, and Cleveland. There will always be money available for this type of funding. He stated that the house should be saved. The house should be for sale before it is decided to demolish the structure.

Mr. Lyons commented that the funding for this particular Land Bank Program is from the Attorney General's office. The funding comes from the foreclosure settlements with the large banks. Different counties were given money by the Attorney General's office to use towards demolition of run down homes. The money that is being discussed is limited in terms of the amount available. There is money placed into the Land Bank account from delinquent taxes collected. Mr. Lyons stated that he believes

the County is utilizing the casino money for the Lake County Port Authority as their economic generator.

The concept of the Land Bank is a lien is placed on the property when a demolition is completed. Once the property is sold on a tax foreclosure, the taxes are paid and that money goes back into the fund.

Mr. Cimaglio asked if the Mentor Avenue Historical District has a Board of Directors and if they were informed of this demolition. The Secretary indicated that the Mentor Avenue Historic District was notified. The Public Hearing Notice, Agenda, and the Staff Memorandum for 239 Mentor Avenue was sent to Mr. James Callender for the Mentor Avenue District. He was instrumental in creating the District. Mr. Callender replied through an email. The Secretary read the email for the record.

> *Thank you for the reminder, I had planned to attend tonight but the weather has changed those plans. I do not like to see any of our Historic buildings demolished, and hoped that there might be a chance of saving the home at 239 Mentor Avenue. It is important that our district be maintained as a historic area but it is also critically important to maintain the residential status of the district. If the only way to save the home were for the city to allow it to become commercial or business then I would support demolition. The district must not be further moved to commercial or it will surely loose what has made the area what allowed it to become a Historic district if the first place. If it cannot be maintained as a residence then sadly it should be allowed to be demolished. Thank you, James Callender*

Mr. Cimaglio asked if someone purchased the home and wanted to operate a doctor's office, would that be allowed. Mr. Schaedlich indicated that offices are not specifically listed. This type of use could fall under a home occupation. The physician's office next door is a grandfathered use as it has been there a long time.

Mr. Lewis indicated that there have been three people who have contacted him regarding purchasing the home. The caveat is they get it for a good price and after they assess the structure in regards to the type of repairs needed they would determine their level of interest. There was discussion regarding the value of the property without the house and the cost of the demolition that would be placed as a lien on the property. The cost for demolition would vary depending on whether or not asbestos abatement would need to be done. The Attorney General's office has placed the standard of the abatement on these demolitions. If the City did not use the Land Bank money, and the Bank was ordered to demolish the structure, the abetment would not need to be done. Typically, owners of single-family houses do not need asbestos abatement for the demolition of one house per year through the Lake County General Health District.

There was extensive discussion regarding the use of the Land Bank funding that is available or waiting to see what will transpire once the house is available for sale. The cost benefits of each along with various scenarios were also discussed. At this time, Mr. Lyons asked for a short recess.

The Planning Commission reconvened and Mr. Lyons explained the process to the Commission. The matter before the Commission is rather rare. The memorandum submitted by Mr. Schaedlich references 1146.13. The Design Review Board shall approve the demolition if any one of the following circumstances is found to exist: (1) Demolition has been ordered by a public official for reasons of public health and safety (in the case of imminent danger, such demolition may occur prior to approval by the Design Review Board). Mr. Lyons stated that in this situation if the Commission does not want the structure demolished, based on the documentation provided by the City that this is not a safety issue; then the Commission should vote to turn down the demolition. On the other hand, if the Commission feels the City is correct for issuing a demolition for a safety issue then the Commission would have to approve the demolition.

Chairman Komjati indicated he would like to move this matter forward. He asked for a motion on this matter. Motion by Mr. Wainwright, seconded by Mr. Komjati to recommend the demolition of the historic structure located at 239 Mentor Avenue located in the Mentor Avenue Historic Preservation District. There being no further discussion, the Secretary was asked to call the roll. On roll call, Ms. Fleck, Ms. Huth, Mr. Wainwright, and Chairman Komjati answered "no"; Motion failed.

ADMINISTRATIVE REPORT:

Temporary Structure and Uses: J. Federico/Fast Auto & Truck has made application for the determination of one (1) trailer in accordance with Section 1137.12 (a)(1). Mr. Federico is proposing to place the trailer at 61 South State Street as a temporary office for Fast Auto Sales and Leasing after demolition of the structure at 61 South State Street.

The Applicant requested this matter be tabled to allow time to create a plan. Motion by Ms. Fleck, seconded by Mr. Wainwright to table the request for a temporary structure at 61 South State Street per the request of the Applicant. On roll call, Ms. Huth, Mr. Wainwright, Ms. Fleck, and Chairman Komjati answered "yes"; Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

- **Final Plat:** request for approval - Heisley Park Residential Subdivision – Phase XVI.

Chairman Komjati stated that in the Planning Commission packet the Memorandum on this item indicated the first four conditions placed on this matter at the October meeting were addressed by Mr. Mortell. The remaining item from the attached Memo dated November 6, 2014 is condition #6. The City is awaiting a letter from Mr. Mortell stating his intent to provide a five (5) acre park either within the remaining Phases to be constructed in the Heisley Park Subdivision, or on land acceptable to the City. Such land shall be conveyed to the City. The staff recommends approval of the Final Plat for Heisley Park Subdivision, Phase XVI based on these facts.

There being no other discussion, Chairman Komjati asked for a motion. Motion by Ms. Fleck, seconded by Ms. Huth to approve the Final Plat for Heisley Park Residential Subdivision Phase XVI. On roll call, Mr. Wainwright, Ms. Huth, Ms. Fleck, and Chairman Komjati answered "yes"; Motion carried.

- **Preliminary Plat:** request for an extension - Heisley Park Residential Subdivision - Phase XX.

It was explained that Mr. Mortell continues to work on condition #6 of the October 20, 2014 letter. Until condition #6 is completed to the satisfaction of the City, staff recommends that the approval of the requested time extension for the Preliminary Plat for Heisley Park Subdivision, Phase XX and the time extension for the submission of the Final Plat for Heisley Park Subdivision, Phase XX be tabled.

There being no other discussion, Chairman Komjati asked for a motion. Motion by Ms. Huth, seconded by Mr. Wainwright to table the request for an extension of Heisley Park Residential Subdivision, Phase XX. On roll call, Ms. Fleck, Ms. Huth, Mr. Wainwright, and Chairman Komjati answered "yes"; Motion carried.

There being no other business to come before the Commission a motion to adjourn was made by Mr. Wainwright, 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