

**MINUTES
PLANNING COMMISSION REGULAR MEETING
SEPTEMBER 18, 2012**

1.0 CALL TO ORDER

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:00p.m. by Chairman Hamerly, in the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present: Chairman Randall Hamerly
 Vice Chairman Trang Huynh
 Commissioners John Gamboa
 Richard Haller
 Milton Sparks

Absent: Commissioner Michael Stoffel
 Commissioner Michael Willhite

Staff Present: John Jaquess, Community Development Director
 Dale Everman, Building Official
 Lawrence Mainez, City Planner
 Kim Stater, Economic Development Specialist
 Sean Kelleher, Assistant Planner
 Linda McKeough, Administrative Assistant III

The Pledge of Allegiance was led by Chairman Hamerly.

2.0 COMMUNITY INPUT

There was none.

3.0 CONSENT CALENDAR

3.1 Minutes of August 21, 2012, Regular Meeting.

3.2 Minutes of September 4, 2012, Regular Meeting.

A Motion was made by Commissioner Gamboa and seconded by Commissioner Sparks to approve the Minutes of August 21, 2012, and September 4, 2012, Regular Meetings, as submitted.

Motion carried on a 5 – 0 vote with the Commissioners Stoffel and Willhite absent.

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4.0 OLD BUSINESS

- 4.1 Appeal Application (APP-012-001) – an Appeal Application requesting reconsideration of the Community Development Director’s determination requiring the Demolition of an Illegally Constructed Room Addition within the City’s Business Park (BP) Zoning District.. The property is located at 25331 Court Street, Highland, California. Assessor Parcel No.: 0279-192-01. Representative: Jorge T. Raygoza, Property Owner. (Continued from the September 4, 2012, Regular Meeting.)

Chairman Hamerly identified the Item and asked for Staff’s presentation.

Assistant Planner Kelleher gave the presentation from the Staff Report and PowerPoint presentation and explained that Building Official Everman is in the audience and that he and Building Official Everman had visited the Site and indicated the research the Commission requested of Staff still shows that the Patio Cover / Roof over the Room Addition were both illegally constructed without Permits. Assistant Planner Kelleher indicated the Appellant is in the audience for any questions the Commission may have and then concluded his presentation.

A question was asked by Chairman Hamerly if that included both the Roof and the walls enclosing that Patio area and Assistant Planner Kelleher responded that is correct.

A question was asked by Vice Chairman Huynh if the Appellant has a copy of the new Staff Report and Assistant Planner Kelleher responded affirmatively and that it is his understanding that they understand what’s in the new Staff Report.

Chairman Hamerly asked if the Commission had any questions of Staff. Hearing none, he then opened the continued Public Hearing and asked if the Appellant would like to make a presentation.

Elena Valdez, who is the Appellant’s daughter, addressed the Commission. She stated that they are still arguing over whether the Roof was constructed with the First Building Permit for the Room Addition.

A question was asked by Chairman Hamerly if they are stating the Roof was constructed with the First Building Permit that was pulled and Elena nodded affirmatively.

Another question was asked by Chairman Hamerly if the Plans that are in the Staff Report Packet and if they had reviewed Staff’s documents tonight and Elena responded affirmatively. Chairman Hamerly then asked if those were the Plans that were submitted for plan check and Elena responded affirmatively and

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that they were the same ones.

A comment was made by Chairman Hamerly stating that was why the Hearing was continued and explained that the Plans that were submitted did not indicate that there was a Roof over that corner area and then asked how was the Roof constructed with the Original Permit if there were no Plans. Elena responded their original plan that they were going to build the Room, but due to the fact they could not afford sprinklers, they did not build the Room after all. All of that was built in by the time they returned to get everything approved and that is when they were advised that sprinklers were required and that is why the Room Addition was not built then. Elena added the Roof and all of that had already been built.

A comment was made by Chairman Hamerly that is the confusion because on Page 12 of the Staff Report does not indicate there is a Roof over that area and that is the portion where Elena is saying that was to build two (2) walls and Elena responded that a female member in the audience is saying that it doesn't mark that, but if photographs were taken when the Room Addition, then you would be able to see how that is been there and that is how it was approved when they went on with the Room Addition and never told to tear it down and was left like that.

A comment was made by Vice Chairman Huynh how he had reviewed the Approved Plans that are part of the Commission's Package and the Approved Plans did not show the Roof on the Patio and that is what he saw. He then asked is somebody could have finished building the Roof and maybe had thought maybe the City had approved it, but on the Approved Plans, it was never permitted that way. Not because someone was out there and finalized the Garage and that the Roof was there and did not mean that the thing was officially approved, or permitted. He reiterated if the Appellant received a copy of the Staff Report's Package that the Commission also received and shows that the Approved Plan did not show the Roof. Elena responded that she cannot argue with the fact that it is not showing on there, but the main thing that the Appellant is saying it and when the Codes were passed, that was always there. Chairman Hamerly asked passed the Codes or gave the Appellant a Final Inspection and Elena responded Final Inspection.

Chairman Hamerly then requested Building Official Everman to come forward and provide testimony.

Dale Everman, who is the City's Building Official, addressed the Commission.

A question was asked by Chairman Hamerly if Building Official Everman was the Inspector of Record for either of the two (2) Phases of the Project. Building Official Everman responded that he was the Inspector for the First Addition back

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in 1997, and doesn't recall since it has been fourteen to fifteen (14 – 15) years ago.

A comment was made by Chairman Hamerly then it would not be a fair question to ask if there was a Rough Framing Inspection for that section of the Roof would have been constructed at that time and Building Official Everman responded that he was unable to provide an honest answer and that it was not shown on the Plans and he doesn't think it was there.

Chairman Hamerly asked if the Commission had questions for the Building Official Everman. Hearing none, he then thanked Building Official Everman.

Chairman Hamerly asked if the Commission had any further questions.

A comment was made by Commissioner Gamboa when this was first considered by the Commission, was to remove the Roof or remove the Roof and walls and Assistant Planner Kelleher responded that it included the removal of the Roof and walls.

Chairman Hamerly then explained why the Item was continued because if the Roof was permitted and constructed, then the Appellant could keep the roof because it was part of the Permit and just eliminate the walls and they would still have a Covered Patio. It is Staff's opinion and the records for the Project seems to indicate that there were no Permits for the Roof and the documents submitted did not include the Roof and it is the Community Development Director's decision that all of the non-permitted structure be removed and Assistant Planner Kelleher responded that is correct.

A question was asked by Chairman Hamerly if there was another option if the walls were to be removed, would the Porch have to be sprinklered as a non-conditioned, non-enclosed space and Community Development Director Jaquess responded that he doesn't believe so and Building Official Everman said no, if the Porch is open on two (2) sides and so much square feet and Community Development Director Jaquess indicated that the Municipal Code regarding the Fire Sprinkler Ordinance was amended about one (1) year ago.

Another question was asked by Chairman Hamerly if they have draft stops on the perimeter walls in creating a separation between the non-conditioned outdoor space and the conditioned space and Building Official Everman responded that he would have to look at it on the inside where the construction is.

A question was asked by Chairman Hamerly if the Appellant were to remove the walls and submit Modified Plans as an "as built" for a Covered Patio and allow the Appellant to keep the Roof in place and Community Development Director Jaquess responded that the Appellant could submit the Plans.

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Another question was asked by Chairman Hamerly if the Appellant wanted to the Room as constructed, the Appellant would have to sprinker it and bring the Addition up to current Codes, because it was not constructed under an active Building Permit. Community Development Director Jaquess responded if the Appellant was to keep the Room in place, but would have to amend the Municipal Code in order to allow the use to occur.

A question was asked by Chairman Hamerly if the Business Park (BP) Designation allow the additions of a patio and Community Development Director Jaquess responded that is a grey area and how he was thinking about that earlier in the day and then asked Building Official Everman if there has been any Patio authorizations in that neighborhood or has that issue ever come up and Building Official Everman responded that he does not believe there are any additions at all in that area.

A question was asked by Chairman Hamerly as an option, would Staff recommend the removal of the walls, submittal of a Permit for a Roof covering and allow a covered Porch or is Staff's position that anything that was not constructed with a Permit, because it is in a BP Zone, that everything has to be removed and Community Development Director Jaquess responded that at this point, Staff's hands are tied with the Code. Logically, the Patio is not a major issue, but the fact is that it expands the structure is the difficulty that Staff is having as a non-conforming Structure and Staff is not in a position to say yes, that can be done, unless the Code is amended.

Chairman Hamerly asked if there were any further questions of Staff.

A comment was made by Vice Chairman Huynh that he had reviewed the Floor Plans without the Illegal Room Addition / Patio and it shows that the exterior walls and kitchen and asked when the Room was built, what happened to the wall next to the kitchen and if it is open now to the new Room or is there still a wall and windows there and Elena responded "Anthony" was the one who had built it, just a wall. Vice Chairman Huynh then said the wall is still there then what about the window at the kitchen and Elena responded there is no window. Vice Chairman Huynh then asked if the wall is still there on the bedroom side between the old bedroom and new bedroom door and Elena responded there is a door there to go to the Room. Community Development Director Jaquess added there is a photograph in the Staff Report that when the field trip was taken, the Addition that the Appellant had constructed was there.

Another comment was made by Vice Chairman Huynh dependent on how the Roof was constructed and if the Roof is to be removed and not just cut the Roof

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off at one location, the Roof may also be part of the main house and some additional work may have to be done if the Roof is to be removed. Elena responded that is the issue what they were arguing about because how it was all built together and it is all just one large Roof.

A comment was made by Chairman Hamerly that is why he asked Building Official Everman if there were draft stops and California framed condition or if it was entirely framed in. He then asked if the Appellant had any other documentation that could be submitted i.e. Inspection Cards, photographs, etc. to show that this was constructed at the same time and Elena responded with the Garage Addition in that it has been so long, that was unable to find, but could possibly check that the Appellant might have one or two photographs when the walls were not there yet and would be just like the Room where the First Addition was made and then the whole ceiling with just the beam holding it. Chairman Hamerly said that is why the Commission had requested if there was any additional documentation that can support the Appellant's contention that the Roof was legally constructed at the time that the Appellant did that phase of the Addition, please provide the documentation to Staff. The only facts the Commission can base its decision on is what is in the Staff Report and what the Appellant is telling the Commission. Chairman Hamerly said unfortunately, everything is pointing and supporting Staff, at this point. There are no drawings that show that the Roof was legally constructed, no Job Cards, no Inspection Records. He reiterated if there is anything else the Appellant can submit to Staff the Appellant has the right to appeal the Commission's decision to City Council. He then explained to the Appellant the appeal to City Council and for the Appellant to further check with their documents.

Community Development Director Jaquess clarified the point issue is the Zoning question for the residential non-conforming use and the Appellant may wish to appeal to City Council to review the Code's provision condition of non-conformance and it may be worth for the Appellant to appeal to City Council just for that consideration. Chairman Hamerly responded that he was weighing that and if the Appellant produces documentation that this was possibly constructed at the time, then the Appellant's action predates the Business Park Zone and explained that is why it becomes critical in chronology of what happened and when. He then explained if the Appellant can prove the Roof was built at the same time, Building Inspector saw it and it was constructed all at the same time, then the Appellant has not expanded a non-conforming use in a BP Zone The Appellant would not be able to do that today and Chairman Hamerly recognizes that fact and that is why the Commission is having the problem that it has where if the Commission wants to propose a compromise, the Commission does not have that latitude because the Appellant is clearly expanding and if the Appellant was to submit Plans today for a retroactive Permit, the Commission could not allow it because it is expanding a use in a non-conforming area. Community Development Director Jaquess responded regardless of the Commission's

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action, Staff is always available to look at the information the Appellant may have, if they have it and Staff could administratively clarify that point with the Appellant if it becomes available to Staff.

Chairman Hamerly then asked if the Appellant was clear with that if the Appellant could produce that documentation, Staff would be able to make a decision and Elena responded affirmatively.

A question was asked by Chairman Hamerly that it would not take an appeal to City Council if the Appellant did provide ...and Community Development Director Jaquess interjected the main issue will be with the Patio / Roof and if legally constructed and establish in terms of the demolition question. It does not open up the walls issue, but it leaves the Patio Cover question reiterated how Staff could revisit that.

A question was asked by Chairman Hamerly if the Commission was clear.

A comment was made by Commissioner Gamboa that he wants to make sure that the Appellant is aware that that the Commission's hands are tied and does not make Policy and the Commission follows the rules set by City Council. The Commission can make some changes, but cannot make the Policy changes and unfortunately, the Commission would like to help, but the Commission's hands are tied with the Code, the Commission is unable to do it here. Elena responded if the Appellant shows proof, can the walls be kept and Chairman Hamerly said probably not, but the Roof.

A comment was made by Community Development Director Jaquess that the Appellant would have to show documentation that the Roof was constructed legally, at that point in time. Chairman Hamerly responded that was what the Appellant's contention last time so if the Roof was constructed with an earlier Permit and the Appellant did not do it in Phase 2 of the construction and Community Development Director Jaquess said he doesn't think that is the case, but would be glad to revisit if they have more information.

(Note: Elena then approached the Dais to show the Commission on the Plans and the following comments were made.)

Elena said that "Anthony" was indicated when this (the Roof) was built that you can tell that it is all one (1) piece. If this is torn down, it is not going to connect with the whole piece. Chairman Hamerly stated that Elena is pointing to the enclosed Room and she is saying that this was the Patio and those are the two (2) walls that were constructed so this photograph that shows a split in the parallel eave of the break of the fascia is the line.

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Elena continued to explain the Room Addition that was permitted and Chairman Hamerly stated that would indicate to him that this photograph shows there is a clear separation in the framing so not only the Roof diaphragm, but the fascia and the rafters are both. So if the Appellant had to remove the Roof, it would not

affect the roof over here on the legally constructed Addition. Elena responded that parting is in front of the window and the whole Addition is over here, so if it is removed, you want the Appellant to remove it from here. Chairman Hamerly explained up to the ridge and down to the eave and to the point of this joint here so that the joint that Chairman Hamerly is looking at, on that particular page, is not at the separation between the corner of the kitchen and the Enclosed Patio. Elena said that it is further in and showed Chairman Hamerly where the closet is and the hallway and then the Room Addition and all of this was constructed when the Roof was already there.

Chairman Hamerly then thanked Elena and asked if there was anyone else in the audience who would like to speak on this Item. Hearing none and there being no further questions of the Appellant or Staff, he then called for the question.

A Motion was made by Commissioner Haller and seconded by Vice Chairman Huynh to Adopt Planning Commission Resolution No. 12-016, in Denying the Request to permit an Illegally Constructed Room Addition, located at 25331 Court Street, within City's Business Park (BP) Zoning District in accordance with the City's Land Use and Development Code Section 16.08.150, Nonconforming Parcels, Uses and Structures.

Motion carried on a 5 – 0 vote with Commissioners Stoffel and Willhite absent.

Chairman Hamerly explained the Commission's decision can be appealed up to the City Council and advised the Appellant to submit their documentation to Staff at any time for reconsideration.

(Note: Building Official Everman left the Chambers at 6:30p.m.)

5.0 NEW BUSINESS

(Note: Prior to the Meeting Staff distributed an additional Letter from Mr. Lance Williams from Williams Homes dated September 18, 2012, and also a Zoning Maps and a Map for Potential Sites for High Density Special Housing for the Commission's

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consideration for Item 5.1.)

5.1 2014-2021 General Plan Fifth (5th) Cycle Housing Element Update (GPA-012-001) (Planning Period of June 30, 2014 – January 1, 2021). The location is City-Wide.

Chairman Hamerly identified the Item and asked for Staff's presentation.

City Planner Mainez explained the Maps distributed and Letter to the Commission and then gave the presentation from the Staff Report while Assistant Planner Kelleher manned the PowerPoint presentation and indicated that Economic Development Specialist Stater was also in attendance to answer questions the Commission may have. City Planner Mainez then gave an overview of the Draft General Plan, which is also Online and the Planning process / CEQA process and the proposed timeframe implementation for the Draft General Plan to the Commission. He further explained there are three (3) issues tonight for the Commission's consideration and directives for Staff: 1) Look at the City's Land Site Inventory for the High Density of 20-30 DU/AC again with the possibility of additional Sites; 2) Loss of the RDA and how that impacts the Housing Element, and; 3) Inclusionary Housing Fee Ordinance. He indicated that he understood that there are two (2) Developers in the audience that would like to speak tonight.

City Planner Mainez continued his presentation and explained the Site Nos. 2, 3, 4, 5, 6 had been changed to R-4 Zoning Designation which is for Multi-family Housing at 20 – 30 DU/AC and in the Certified Housing Element 2006 - 2013. Site No. 7 is the Overlay for the Golden Triangle Policy Area which is proposed to have 650 units at 20 – 30 DU/AC. With regards to Site No. 1, he indicated that the Commission had agreed to and that the Site should be downgraded from R-4 Zoning Designation to an R-1 Designation and "is off the table" for right now.

A question was asked by Chairman Hamerly if that means removing Site No. 1 and City Planner Mainez responded that it doesn't have any bearing on the numbers for Site No. 1 is in the Housing Element as R-1 Zoning Designation.

City Planner Mainez further explained on Site Nos. 2, 3, 4, 5 and 6 has given the City 20 – 30 DU/AC so it currently gives the City a Certified Housing Element and covers the time period from 2006 to 2014. Site No. 7 (the Overlay) gave the City excess / surplus housing inventory and how the State (California Department of Housing and Community Development [HCD]) is looking for excess inventory whether it's Low Income, Moderate Income or Above Moderate Income and how every City has to attempt to demonstrate that they have the land, not only to meet the Regional Housing Needs Assessment (RHNA), but exceed it. When the General Plan went to City Council for approval, the City Council directed Staff to re-evaluate the R-4 Designation Zone locations and Staff provided to the

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Commission alternatives with Site Nos. 8, 9 and some of 10 and how the City Council's directive was to try to distribute the Multi-family Housing a little bit more equitably through the City. Site No. 8 is located in the EHR, the Property Owner is here to speak and there may be a conflict and currently, there is not a Zone Change suggested and is requested to remove from discussion Site No. 8 and take it "off the table". Site No. 9 is sixty (60) acres and the Developer is requesting that a portion of that up to twelve to fifteen (12 – 15) acres to be set aside for building at least 300 hundred units at 20-30 DU/AC.

A question was asked by Chairman Hamerly if the numbers in the brackets for Site No. 9 shows the High Density portion of that respective Site and City Planner Mainez said that is correct. He added that Site No. 10 is part of the Harmony Specific Plan Project which is owned by Orange County and is proposing to construct 215 Multi-family housing units at 20-30 DU/AC and, for the record, informed the Commission that these units are located in the Fifth Phase which is the Last Phase of that development. He explained how the Inclusionary Housing Ordinance was written to show on the 1,600 acre Overlay that anywhere within that area the Developer must build at least 215 units at 20-30 DU/AC and was informed that another City had attempted to do this and HCD rejected that because of the phasing plan and it is not realistic to assume that you could get 215 units within this new housing planning period and may have to discuss and, for the record, advise the Commission and City Council that may not be a viable Site to meet RHNA, but maybe in the next cycle.

A question was asked by Chairman Hamerly if beyond the window of 2021, but if the Housing Element is submitted and approved by the October 13, 2013, deadline, does that push the City out another four (4) years to 2025 and Community Development Director Jaquess responded eight (8) years from 2014 and City Planner Mainez added the way the Program was written and to get credit for RHNA, the City adopt the Overlay by 2016, that would commit the Developer to the City that within that planning period, 215 units would be built. Chairman Hamerly said then by 2021 and City Planner Mainez interjected then the Developer would have to change the Zone Change to an Overlay by three (3) years after the Housing Element is adopted and asked the Commission not to think of it as 2021, but as 2016. Community Development Director Jaquess added with being optimistic phasing development schedule, the Fifth Phase which is their Last Phase, would not get there by 2021 and if that area is going to be considered that area for affordable housing assistance for the Housing Element, it would make more sense for it to be considered in the next Housing Element Cycle.

A comment was made by City Planner Mainez that he wanted to clarify and not want to confuse the word, "assistance" as "City assistance" and clarified that it is the "Land Inventory" and if you are going to do any Zone Changes, do it by 2016. He continued indicating by eliminating Site No. 8, leaving Site No. 10 so that the City Council that the Commission has reviewed it and Staff will explain it to

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Council that it is not realistic and keep Sites 2, 3, 4, 5, 6, 7, and 9 the City will exceed the RHNA and gives the City adequate excess / surplus units and was confident that it would not be a problem in getting the Land Inventory Certified by HCD. He then asked if the Commission had any opinions or questions regarding the existing R-4 Sites for reconsideration and asked what would be the Commission's design to either discuss the Sites now or the other three (3) issues, such as RDA and the Inclusionary Housing. Chairman Hamerly responded that he wanted to give Staff adequate time and suggested to hold off major discussion until after Staff's presentation.

City Planner Mainez continued with his presentation regarding the loss of the RDA and its Programs, Assistance, partnerships with non-profit organizations, or contributing to new development, etc. and how the RDA was a major tool in the City's Housing Programs. The RDA has been removed from the Housing Element and how the State (HCD) will be reviewing the City's Housing Element with the loss of RDA and will Highland will be the first City in the State / County to test this.

Economic Development Specialist Stater added that there is an added time line regarding the sequencing of the Hearings and the possibility of adding future language in a future Housing Element in order to clarify for HCD when the RDA was dissolved and that the City established Successor Agency and Housing Authority and how the City's housing assets were transferred over to the Housing Authority. A comment was made by Chairman Hamerly that the RDA is gone already and Economic Development Specialist Stater responded that there are residual receipts that have to do with Jeffrey Court and some other money that is still owed regarding housing and the State / County and Cities are starting to look at this and reiterated there may be a little bit of added language for clarification.

A question was asked by Chairman Hamerly if the identified authorities that would have the ability to implement the Program and Economic Development Specialist Stater responded that is correct and if there are some questions of some outstanding City RDA / Housing Authority bond proceeds that may be significant and that clarification needs to be done and Chairman Hamerly then thanked her.

City Planner Mainez continued with his presentation regarding the Inclusionary Housing Fee Ordinance and explained such Ordinance to the Commission in that every housing development in the City has to set aside fifteen percent (15%) of its units for the Low to Moderate Income Median. He then explained whether the project is ownership, or for sale versus rental and that the developer has an option to pay an In-Lieu Fee rather than to set aside the units for development and provided an example with the Toll Brothers' Project being a High Income Median, may not be realistic to set aside fifteen percent (15%) of their houses for Low Income Families and that the Affordable Housing Inclusionary Fee is \$3,750

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/ unit. He further explained to project out the RHNA allocation to include a Policy to keep the Ordinance active and in the Program, Staff has asked the City Council to study that issue by 2014, then review every year after that because of no RDA funding and possibly that the Fee is too low or too high, and need to make some adjustments to some other formula. City Planner Mainez said that this Policy is a City Council Policy and the Commission cannot take an action on it, but the Commission can provide an opinion on the Ordinance itself and the benefits that Staff would forward the Commission's opinion(s) to the City Council.

City Planner Mainez stated for the record, regarding the submitted letter from Mr. Lance Williams, how it states \$40,000 fees, but does not indicate that those are City fees. He said that the \$40,000 fees are not City fees alone, but more like \$20,000 sewer, school, utilities, etc. that are not controlled by the City. He then concluded Staff's presentation.

A question was asked by Chairman Hamerly regarding if Inclusionary Housing Fee Ordinance (Item "C") is from 2006 to this day, that the City has collected In-Lieu Fees of \$475,000 and City Planner Mainez said that is correct and whatever units the City permitted, times \$3,750 / unit.

A question was asked by Chairman Hamerly how many units would that be and Assistant Planner Kelleher responded that would be 126 units.

A comment was made by Chairman Hamerly the point for his question is the projection through 2021 and City Planner Mainez responded affirmatively explaining the formulation from the Map with the \$3,750 / unit fee totaling which is the RHNA numbers.

Another comment was made by Chairman Hamerly if building the viability of a housing model to provide for lower end housing and this is the vehicle to do it, and there is no economic engine behind it, is the City going to be penalized if the City falls below the RHNA numbers and no way to fund it and City Planner Mainez said right. If the market is not there to build the units, and there is isn't any money to build or design Programs, and the Housing Element law does not require Cities to build any units and is only the projection to accommodate the Inventory and is the only mechanism to build Low Income Housing, if the developer does not want to set aside the units.

A comment was made by Chairman Hamerly about alternative revenue models in general in making up the difference with RDA funds and asked if all of the Programs are in place to accommodate Low Income Median and then what happens with the fees and to the affordability \$125,000 and the market because of a percentage and gave an example of a starter home price. Community

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Development Director Jaquess responded that is why Staff has raised this as a Policy question and revisited the analysis. Chairman Hamerly stated he does not have a good recommendation and maybe how Building and Safety calculates Building Permits Fees based on square footage and has a standard cost per square foot and provided an example and maybe if there is a model that would work for affordable housing. Community Development Director Jaquess responded the \$3,750 Inclusionary Housing Fee Ordinance was adopted in 2006 and that a detailed analysis was done at that time. The Consultant had recommended the Fees to be approximately \$80,000 / per unit for new construction for affordable housing. The City Council considered that Report at

least with two (2) Public Hearings and felt it was too high, there was a lot of public testimony and reduced the Inclusionary Housing Fee to \$3,750 / unit. Part of the rationale was that the Fee would be used as part of the overall approach accompanied by RDA revenue, etc. that could be used to build affordable housing.

A question was asked by Chairman Hamerly that the model was generated as matching funds to supplement the RDA funds and now this is a stand alone and Community Development Director Jaquess said exactly and that the RDA funds, as a tool, are no longer available and needs to be revisited; if the Fee is correct, does the City want to do it at all is the question that needs to be discussed.

Another question was asked by Chairman Hamerly regarding Policy in previous discussions with the Housing Element and that there is no credit under the RHNA numbers for rehabbing existing units and putting them into the Low Income Housing Inventory and existing credits and needs to be corrected if rehabilitable. City Planner Mainez responded that it does allow credit as a new unit, after substantially rehabbing an existing unit and make it affordable and could place covenants on for forty-five to fifty (45 – 50) years. The problem is that the City would have to demonstrate that without intervention by the City, that structure would fall down and be lost to the Inventory and is difficult to do and the City does not include that Program.

A comment was made by Chairman Hamerly regarding what about foreclosures and how the EHR Homeowner's Association (EHR HOA) has had to pick up their landscape maintenance and if the City were to step in to satisfy the tax lien, and take it over and now have a rental unit and provided an example if it would cost the City ten percent (10%) of the construction costs and take some of the funds to satisfy the tax lien and would be a subsidized unit and would be fairly evenly distributed throughout the City, assuming foreclosures are City-wide and not in just two (2) neighborhoods. Economic Development Specialist Stater responded the RDA law did allow the City to do that if an existing structure no matter the condition and established a covenant for forty-five to fifty (45 – 50) years and

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then could count that toward the Redevelopment Inclusionary Housing. The Housing Element law is not the same and does not afford that same flexibility as counting it as a new unit or counting it towards the RHNA and then explained the definitions to the Commission. She added if in the City if a residential unit is falling down and there are major problems with it being substandard, it would be hard to meet that threshold with the Housing Element or if i.e. apartment complex and provided an example.

A question was asked by Chairman Hamerly if the cost per unit as opposed to detached single family residential detached units and Economic Development Specialist Stater responded affirmatively. City Planner Mainez added there are

no credits for new units, but the Housing Element looks at existing housing stock and played a key role in satisfying that requirement. When the Staff prepared the Annual Reports every year to HCD for the Housing Element and not the RDA, the City got points / kudos. In terms of the existing housing vacancies and foreclosures, as part of the RHNA process, one of the positions that Staff took is that the growth rate projection was aggressive and over estimated and the City demanded credit for all of the vacancies, all of the rental units and HCD heard the City, and the City was able to reduce RHNA successfully from 2,000 units down to 1,500 units and the RHNA process counts for that with the EHR vacancies. Community Development Director Jaquess added that RHNA is for new construction only.

Chairman Hamerly asked if the Commission had any questions of Staff. Hearing none, he then opened the Public Hearing and explained that he has some Speaker Slips and called upon Mr. Camille Bahri.

Mr. Camille Bahri, 10575 Oakdale Drive, Rancho Cucamonga, California, who is a Representative for Sunland Communities, addressed the Commission. He stated he has been with associated with the EHR for fifteen (15) years now and still has the remaining ownership on three (3) parcels as Planning Areas (PA) 39, 40 and 42 and his concern with Site No. 8 which is 25 acres (PA 40 and 42) and cannot speak on the remainder of the parcel that has been designated with High Density Special District. EHR is unique situation being under a Master HOA and \$100 monthly fee complicates matters from a revenue perspective. There are other property owners that are willing to convert some of their properties to a higher density and is a product that Highland needs. His Project is with Medium Density that was introduced in 2006 has not materialized yet due to the economy. His concern with committing to the High Density does not believe, at this point in the foreseeable future, that they can draw a high enough rent to justify construction costs fees, and get the commitment from the developer or with lenders to support financially a project like that and have complicated this issue for a while and might not be feasible in normal circumstances. In EHR,

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with certain-sized properties, the demographics, amenities not being under the Master HOA might be justifiable and cannot speak on their behalf. The housing market is there and that the replacement cost of a typical housing unit today in Highland is higher than \$200,000 is inclusive with fees, improvements, roads, the structure itself, the land, etc. would cost \$100,000 to produce a unit and couldn't sell it for \$120,000 or \$150,000 and would be a loss. Mr. Bahri stated that in 2006, from the Fee, you have reduction in value of over fifty percent (50%) dependent on the area and that means that the affordability is back and goes well for the market. Mr. Bahri had visited the William Homes Project and was advised by a lady that in the past six (6) weeks, that the lady had sold six (6) homes because of the CHDAP Program for the first time buyers having a \$150,000 combined income household and with the lower values and interest

rates, etc. have brought back that high value that was experienced in 2006, down to more of a normal level and doesn't know if we will ever see the 2006 numbers again unless we go through a long earned curve at the normal appreciation that matching some of the cost of living, inflation rate, etc. which did not match how the housing market went up in 2006 and reiterated that affordability is back. The cost of producing the unit is high to the value and that the \$3,750 / unit Fee has a bigger impact going forward in the foreseeable future than it used to be in 2006. He explained how Toll Brothers had sold homes for \$800,000 - \$900,000 and are now selling at \$450,000, and as a percentage, it has become a much higher burden. With the affordability back and people are able to afford a reasonably priced unit, the City is able to meet all of the RHNA and affordable housing requirements for new construction. There is ample room to the 20 DU/AC and above, and there is no resistance by developers to do that and have an excess number of units that the developer could put out in the market between now and the time frame the City is looking for and should be an open market driven resolution for affordable housing and would be able to reach the goals mandated by the State. The need for an Inclusionary Housing Ordinance that was done in 2006 and that the market was completely different back then and was hard to argue against that because the affordability in the Inland Empire went down approximately thirty-three percent (33%) of people being able to afford the Median priced house. There was an issue and when the market is increasing and there is a \$3,750 Fee, and that the market appreciation itself is dating you out because six (6) months down the road the unit that you were going to sell has appreciated that much and is easier to take. We are under a different economic future and believed that it is going to be very slow and stated since 2006, he has not had a single telephone call regarding his Development which is the last piece of the EHR that is the jewel of the City so far. He suggested there is no need for the Inclusionary Housing Provision in the Housing Element and should be removed altogether and should not be at fifteen percent (15%) number of units with a covenant over of forty to forty-five (40 – 45) years and would "put a thumb down" on values, demographics, and is a socialistic program that it would not self-impose that would be mandated without appropriation of funds and put an

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additional burden possibly on other development an investment which is an struggling to make ends meet, and is willing to come to Highland, but just the economics are not there. Mr. Bahri then requested the Commission recommend to the City Council for the Inclusionary Housing Provision in the Housing Element that calls for an establishment of an Inclusionary Housing Ordinance to be removed altogether and abolish the existing Ordinance for requiring Inclusionary Housing or requiring an In-Lieu Fee and let the open market drive it. As a side note, Mr. Bahri stated that the Fee was \$97,000 and not \$80,000. There is nothing that justifies a socialistic program like that and with the RDA gone, meet with the open market for affordable housing when units are minimum per acre and are available in excess, he said that he thought this is the route that we should go and get out of that Program altogether that no one can afford. Mr. Bahri then said he would be happy to answer any questions the Commission may have and then thanked the Commission for its time.

A question was asked by Chairman Hamerly that the City is able to meet the RHNA allocation for the Low Income units, without the Inclusionary Housing Ordinance or the Fee, are the RHNA numbers that are listed in the Table of the Staff Report are achieved without assistance any of that assistance and are able to be Low Income units without any assistance or Agency participation. Mr. Bahri responded that it is his understanding with Staff is by adopting the RHNA numbers, that identified the number of units that need to qualify for Low Income and in order to meet that, there has been a identification of three (3) classification Densities; from 1 – 10 DU/AC meeting the certain level of income; where there is 20 – 30 DU/AC, given the size of the unit, and how on Mr. Bahri's has a provision on his Specific Plan for PAs 40 and 42 for three-story units and none of the builders in 2006 that he had worked with showed any interest for a three-story unit. The Density would come at the expense of the square footage of the unit and would drive the affordability of the unit and open market. There are enough properties that are willing to do the 20 DU/AC to meet / exceed and he reiterated that this is his understanding and there is no need for the City to get involved with rehabbing homes, buying properties, imposing Fees, etc. in order to supplement the Program and is no longer funded with RDA gone.

A comment was made by Chairman Hamerly disconnect between Mr. Bahri's statements, from the Table and from the figures that were discussed in the cost per unit of the Inclusionary Housing Program and land acquisition costs, infrastructure costs, Permits Fees, etc. is looking at some fairly small parcels ranging from 2½ to 15½ acres and if there is a small piece of land and the person is trying squeeze onto a 2½ acres, unless the unit is going to be built vertical which has its own structural costs involved and with amenities to make the project saleable, he is having a hard time reconciling the \$80,000 / unit even at that Density on a small piece of land and is a target of Inclusionary Housing Policy. He then provided an example if he was a developer and without RDA

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and if I can then hit the RHNA numbers, considering all of the intended inclusive costs. Mr. Bahri responded that he believed that the \$80,000 made 2006 would be more than \$90,000 was the City Fee that would have to be collected from every new unit built in an open market by a developer for the City to use Inclusionary Housing and inclusive of fifteen (15) covenant and the City will take on the burden and purchase apartments \$80,000 may rehab units under a covenant.

A question was asked by Chairman Hamerly why ask Staff if Rehabs counted and the RHNA is for new units and provided an example of 40 DU/AC and In-Lieu Fees collected for purchasing. Mr. Bahri responded that every unit would be \$80,000.

A comment was made by Chairman Hamerly \$4,000 with 20 units doesn't get to the fifteen percent (15%) allocation, but is close. Mr. Bahri responded that if he understands the process, he believed that is a moot point and there is no need for to the City to impose Inclusionary Housing or an Inclusionary Housing In-Lieu Fee, because the affordable housing requirements can be met through an open market 20 DU/AC that seem to be available in excess. Staff is presenting if meeting the affordable housing requirements under the High Density Special District and that there are enough number of units that you believe will be come on board between the projected years, and that if the State agrees with that and there is no need for the Affordable Housing Ordinance that puts the City in the business of collecting monies, rehabbing / building units, etc. and would be met by an open market.

A comment was made by Chairman Hamerly pick a Site No. 2, 3, 4, 5, or 6 and ask if the funding is 100% Low Income Housing model and cannot get a lender. Mr. Bahri responded he doesn't know if Lewis Homes could / would not commit in that High Density. Once the development is justified, it can economically drive itself. He provided an example if the rental for the mortgage i.e. \$60,000 cannot justify and is another financial burden layer and provided an example of fifteen (15) acres at 20 DU/AC being a good model for. For his Project, he is unable to justify for various reasons and he went back to the notion with the City's suggestion that it can meet its requirements and a property owner is willing to build 20 - 30 DU/AC and have units on the market that meet the financial model, as well as the affordable housing and is a financial open market. The availability of High Densities that will be rented or sold at a lower rate that will meet that requirement without getting into a social program that was imposed in the past that is no longer funded and have the added burden with the RDA gone and property valuation down. Since 2006, the City has collected only \$457,000 and asked what is that going to do the Program, and if we are meeting the

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requirements for the affordable housing through the minimum 20 DU/AC, impose the Inclusionary Housing Ordinance on ourselves.

Chairman Hamerly asked if the Commission had any questions of Mr. Bahri. Hearing none, he then thanked Mr. Bahri.

Ms. Pat Coffee, 7394 Central Avenue, Highland, California, who is a resident and representing the Coffee Family, addressed the Commission. She stated that she owns 8.3 acres which is located adjacent to the Alta Dena Dairy and is currently Zoned at Low Density Designation and has been requesting a higher Zoning Density over the years. The property was to develop a nice quality project there and how her parents had owned the property since 1949 and had been a horse ranch for the past fifty (50) years. Since then, the land has been underutilized with one (1) house being on the 8.3 acres and is not appealing with

Low Density Zoning. She would like to have the property upzoned so that a project would become a little community within itself with improvements and would add incentives to the areas around her similar to Jeffrey Court that is across the street, is close to the Library, Community Center and would be an asset to the City and that being transportation, Fire, Police are also in close proximity. If meant affordability rate, market rate, whatever, she is looking for something that she can be proud of on that property that means a lot to her. Ms. Coffee then requested the Commission to consider upzoning for the 8.3 acre parcel and be suitable for that area and maybe give some incentive to improve the area behind her. She then asked if the Commission had any questions for her.

Chairman Hamerly asked if the Commission had any questions of Ms. Coffee. Hearing none, he then thanked Ms. Coffee.

A comment was made by Chairman Hamerly the possibility of adding Ms. Coffee's parcel to High Density Zoning and City Planner Mainez responded if that is the desire of the Commission that item can be added to the list for discussion and then went back to the directive as to spread out and it seems like we are adding more. Chairman Hamerly said how the Property Owner is requesting the upzone and it is nice to have a Policy to distribute it evenly, but there are property owners that are stepping up and saying this is what they would like to do with their property and for the Commission to give some consideration, respect and wishes of the property owner that is volunteering to help the City to meet its target and City Planner Mainez reiterated if that is the Commission's desire.

A comment was made by Commissioner Haller to go ahead and put it in and remembered how the property owner for Site No. 5 was strongly opposed and

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City Planner Mainez responded that the property owner was ready to submit an application for apartments and the City / RDA has some parcels that are owned on Site No. 5 and Staff recommends to keep the City's parcels at the Higher Density.

A directive was made by Chairman Hamerly that the Commission submit Ms. Coffee's property to City Council for consideration and City Planner Mainez said okay. Chairman Hamerly added how Site No. 8 is "off the table" and need to make accommodations.

A question was asked by Vice Chairman Hamerly for Staff to show the Commission Ms. Coffee's property on the PowerPoint display and Assistant Planner Kelleher responded and displayed Site No. 5 and Ms. Coffee's property.

A question was asked by City Planner Mainez if Ms. Coffee's property is 8.3 acres and Ms. Coffee responded said that is correct.

Chairman Hamerly asked if the Commission knew where Ms. Coffee's property is located and the Commissioners nodded affirmatively.

Mr. Matt Livingston, who is the owner and represents Glenrose Ranch, addressed the Commission. He stated Glenrose Ranch is a twelve (12) acre parcel located on Greenspot Road approved for 121 units and that it never made sense to him with increase the Density typically in Low Income areas would encourage development with the RHNA numbers and the State mandates and he thinks that it is separated from reality. He believes that there is opportunities like Property Owner, Ms. Coffee, and another gentleman who had spoken at the last Hearing in East Highland that want to increase the Density. That is what Mr. Bahri's point was that there is a market solution instead of imposing on developers in less desirable areas and those property owners that they want this on their site and can make the numbers work. When imposing a Fee or a tax on something, the City is trying to encourage. With regards to the Housing Inclusionary Fee, he needs 10 DU/AC and to make the RHNA numbers and he is trying to help the City to meet the RHNA numbers, a Fee is imposed and then is taxed for it in order to support those RHNA numbers. In 2006, when the Inclusionary Housing Fee Ordinance was approved, that made all of the sense in the world because people didn't care what they had to pay and Reality has come back and \$3,750 Fee is meaningful to Mr. Livingston and he indicated that he is not going to stop developing because of that Fee, but if the Inclusionary Housing Fee was eliminated, it would help a great bit in getting their budget to move forward with their Project. He explained his method is rather than compare that Fee to a revenue number is to compare it to what they paid for the land. The reason that is done so that they can borrow money to build the site and that the

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equity is in building the home, dependent on the home value, land value, etc. but is not that full revenue number. He further explained that they paid \$17,000 per lot for their site and the \$3,750 Fee is twenty to twenty-five percent (20% - 25%) cost of the value of their land and is a significant number. Mr. Livingston had reviewed and cited the Folsom Court Case regarding the Inclusionary Housing Ordinance and why it was rejected because Folsom had eliminated the Inclusionary Housing Ordinance without amending their General Plan and updating their Housing Element. If the Inclusionary Housing Fee is removed / eliminated, then update the Housing Element, and the City has a unique chance right now with updating the City's Housing Element to review the Inclusionary Housing Ordinance again to decide if it is still relevant and useful and doing what it is supposed to do and Mr. Livingston thought that it was doing the opposite. Because with the City updating the Housing Element, it gives the opportunity to review that Fee to see if it still makes sense without breaking the law and that is what the Folsom case said.

A question was asked by Chairman Hamerly if the Folsom Court Case that Mr. Livingston was referring to specifically for the Inclusionary Housing Element or the elimination of the Overlay Districts. Community Development Director Jaquess responded the Folsom Court Case is that they eliminated the Inclusionary Housing Fee from their Code and then a housing advocacy group filed a suit and the Court ruled that it was inconsistent with General Plan and that and that was identified as an implementation tool for Housing Element of their General Plan.

Another question was asked by Chairman Hamerly if the State rejected the Housing Elements that try to create the Overlay District that would eliminate phasing and not the result of a lawsuit or the State reviewing a General Plan and trying to average something into a larger piece of land that is going to be a later phase that is not going to have a chance in being built within this housing cycle. City Planner Mainez responded that he had mentioned it in order to open up the door with developers having issues with these Inclusionary Housing Elements and elevates the importance of the General Plan and is a Vision Statement for the City and how the Housing Element is no more important than the Land Use Element, Circulation Element, Open Space Element, etc. and are all connected. The Land Use Element sets aside land use for housing, commercial, open space, etc. and how the Vision to provide a sense of place in a community that everyone could live close, work, etc. and housing is key because it provides land use for every economic sector of the community. The Housing Element is density and assume for affordability and that the Toll Brothers' Project is different from the Golden Triangle Area Policy apartments / condominiums. The Court Case said that it didn't care what the reason is for eliminating Inclusionary Housing

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Ordinance and is irrelevant. What is important is that the General Plan has a Vision and is what sets the bar and is required by the City.

A comment was made by Chairman Hamerly that the Court said that the most important thing was the Vision Statement and housing accommodation regardless of the funding mechanism. City Planner Mainez responded affirmatively and that Housing Element law in the State puts housing as a high goal for Cities and the way that the Cities accommodate that is through their General Plan. Every Ordinance, decision that is made, is based on that General Plan and is the constitution for land use development. The Court said that it didn't care what the issue is with the developer, the General Plan sets the Policy and must keep it in there. Otherwise, how does one ensure that the teacher, fireman, the person who makes \$20,000 where are they going to live. The market can set the number of units built, based on a profit margin, but what the State and the Courts are saying that there is a segment of society that needs to be addressed and cannot ignore that. This Ordinance says that the developer can build housing at the market rate, but what about the Lower Income individuals and how are they accommodated and provided examples with

Beverly Hills, some of the Beach Cities cannot ignore this. City Planner further explained about how this Ordinance can create and fund that be built up over time, and can build the houses ourselves which he believed is unlikely because the Fee is too low and is unrealistic and would have to save for many years. The other options that the developers can talk amongst themselves and if they are unable to build affordable housing on their site, to see if another developer would be willing to take the units that the City is asking for him to build and put them on that other developer's site. If the developers are unable to come to terms either way, then pay the \$3,750 Fee and be done with it.

Another comment was made by Chairman Hamerly the alternative to the Inclusionary Housing Fee is fifteen percent (15%) allocated and City Planner Mainez said absolutely and is the number one objective of the Ordinance is to build the fifteen percent (15%) units as affordable housing and the rest is market rate and if the developer cannot build, then pay the Inclusionary Housing Fee. And that is the heart of the discussion that developers will never come to terms on what the appropriate number is. City Planner Mainez said to set aside the Inclusionary Housing Element for a moment and that there is still Development Impact Fees (DIFs), Building Fees, School Fees, etc. and is never going to end. Returning to the Inclusionary Housing Element, that is one part of how frustrating it is to build in California and indicated that unfortunately, the Commission is unable to solve this tonight and has to go in front of City Council and that the Developers need to attend and convey their concerns with their case and that Economic Development Specialist Stater and City Planner Mainez put in a Policy that Staff study this because Staff is not going to be solve it. Chairman Hamerly

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added that the Commission is not expecting a solution tonight, but in short of the entire Commission attending City Council and monopolizing the podium to make the Commission's wishes known, to at least get some of these issues into the Minutes so that the City Council can see the Commission had discussed it and some of the topics that the public had brought up so it can go to them for consideration. City Planner Mainez said absolutely and responded aside from the Commission telling Staff that there are some objections to some social issue and distribution of wealth and take a political stand, which is probably is appropriate or at this stage and probably doing it and Staff has a concern and that the Developers in the audience tonight have a huge case and is sad that we are killing development, bit by bit and dollar by dollar, but again, there is nothing the Commission can do tonight that can solve this problem in a couple of Meetings.

A comment was made by Chairman Hamerly that it is about supply and demand economics and provided an example. If a person is selling fewer and fewer units, the person does not keep increasing the price of the unit and then say all that needs to be done is to sell one unit for \$10M and have made his quota instead of selling 10,000 units at an affordable price, you start doing everything

that you can to get competitive or even mean and say what can we do to bring the Fees down as low as we can get them to try and create a spark. If Highland is a more aggressive cost model than Redlands, San Bernardino, Loma Linda, etc. a developer is going to say that it's bad, but at least Highland is better. At least there is some incentive to try and spur the industry with it being bad for the past few years. And if there is a temporary holiday on Fees until certain number of units can be constructed per year and going to reduce the Fees to try and make it as affordable as possible, with all things considered and to try and encourage development and reiterated that it is based on supply and demand economics. City Planner Mainez said not to take the Speakers' side, but City Council is doing that and requested that Staff to look at all of the Fees annually / biannually dependent on what the Fees are and is looking at Fees and reduce / stabilize them or forego and increase them. He further added that the Overlay for Site No. 9 and if go forward with that Site, as an Overlay, once the developer comes in with a specific plan and builds housing and approve it with no change, the City can, by law, eliminate another Site because the Overlays are surplus units and that is what the State wants and that the States wants to make sure that there is enough surplus in the City's Inventory but will also allow the City once that project is approved, as long as it doesn't go below... and Chairman Hamerly responded as long as it hits the gross numbers.

A comment was made by Mr. Livingston that 120 homes were constructed since the Inclusionary Housing Ordinance was approved in 2006 and had asked how many of those were for 2007, 2008 because those projects were so far along and

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they couldn't just stop. For the past few years, how Williams Homes is the only one that has been building that he knows of and that the numbers are really low and that ninety percent (90%) is the market and some of those are through the Fees and where the Government tries to either encourage / discourage is through taxes. He stated that he had read the Draft Housing Element and the implementation and the Inclusionary Housing Ordinance. He explained there are three (3) places listed for Program implementation; rehabbing single family homes, rehabbing apartments and a general statement regarding affordable housing. With regards to rehabbing single family residential units unless they are ready to fall down in order to qualify for funds that maybe with two to three (2 – 3) homes are not scaleable, is a drop in the bucket and at what expense. Mr. Livingston said that he has 121 units and Mr. Bahri has 250 units and are a lot of units that would help with the RHNA numbers versus the handful that would have to be rebuilt with the Program and reiterated that it is not scaleable. The general statement is that the Fees would be used to help affordable housing in general and was unsure how that would tie in and with Mr. Bahri's suggestion with a market based solution and with the HOA. He then thanked the Commission for its consideration.

Chairman Hamerly said that he has no more Speaker Slips and if there was anyone else in the audience who would like to speak on the Item. Hearing none, he then asked if the Commission had any further questions of Staff.

A question was asked by Vice Chairman Huynh that if one day decided to eliminate the Inclusionary Housing Fee Ordinance what happens to the collected funds already. Community Development Director Jaquess responded the funds collected would be used for the purpose of affordable housing projects and was unsure of what they would be, at this point, and was legally and appropriately collected, when the money was collected.

A comment was made by Chairman Hamerly how quickly properties deteriorate when they are vacant and it is an easy extrapolation if the vacant house is not patrolled or maintained for two years and that anything that is portable would be removed from that house i.e. windows, doors, wiring, fixtures, hardware, etc. and would fall down in short order if the vacant house was not maintained and occupied. The threshold for rehabbing is low and gave an example of wires being stolen and pulled and how there are scavengers, squatters, homeless and how quickly a project has to be rehabbed / reoccupied becomes very low and in that case, then some case should be made to the State to say in order to save this blight on the City by stepping in before it becomes an issue of public safety and welfare and believed that would be a simple argument and there are cases there to document that.

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Chairman Hamerly asked if the Commission recommends modifications or additions to the Housing Element, or as written. Commissioner Gamboa responded that the Planning Commission recommend to the City Council that the City Council look at all Development Impact Fees (DIFs) for a short term reduction temporarily until the economy rebounds. Community Development Director Jaquess said the City Council has reduced the Fees for the last two to three (2 – 3) years, by a certain percentage and the reduced Fees and then extended the reductions and then asked if the Commission would want the City continue that Fee reduction program further or Council to extend to a lower percentage reduction what the Council has currently reduced it to. Commissioner Gamboa responded to extend to reduce or lower the Fees temporarily and not a program for years in order to spur some new construction. Chairman Hamerly added he was unsure if the Council would want to place a threshold on it when the City starts hitting a the RHNA number and gave the example of like fifty percent (50%) if 2007, or some achievable number says that the housing market is coming back in terms of new construction i.e. Sunset Trigger for those Policies. Assistant Planner Kelleher added that the City has held the same reduction level at twenty-two percent (22%) in DIFs that the City has control over. City Planner Mainez added with the Housing Element Program 5 C that requires the City to evaluate DIFs on a biannual basis.

A comment was made by Vice Chairman Huynh regarding with other jurisdictions with DIFs are paid at the time of the Certificate of Occupancy instead of collecting up front at the time of the issuance of the Building Permit and that it gives the developer some additional time and Community Development Director Jaquess responded that the City of Highland does that and that City Council implemented that change a couple of years ago.

Chairman Hamerly asked if the Commission had any further questions of Staff. Hearing none, he asked if anyone else in the audience would like to speak on the Item. Hearing none, he then closed the Public Hearing and opened the floor for discussion amongst the Commissioners.

A question was asked by Vice Chairman Huynh Commissioner Gamboa if that was a Motion or just a recommendation and Commissioner Gamboa responded was just a recommendation.

A question was asked by Chairman Hamerly regarding the comments if they had to be enter them as formal Motions as to add them on for consideration and City Planner Mainez responded that the Commission can add at the end of the Motion as adjusted, or as recommended by Staff.

A comment was made by Chairman Hamerly regarding Item No. 2 and add on the additional language to say, “and the additional items submitted for

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consideration requested by Staff to be considered by the City Council” and City Planner Mainez asked about the addition of Ms. Coffee’s property to the Inventory and Chairman Hamerly responded affirmatively.

A question was asked by Vice Chairman Huynh regarding if Staff knows of any Cities or Counties around here that have removed the Inclusionary Housing Fee Ordinance and Community Development Director Jaquess responded he was unaware of any that had removed it, but quite a few Cities never adopted it. City Planner Mainez added that was discussed at the Director’s Meeting and how everyone is looking at it.

A question was asked by Chairman Hamerly if the Housing Element is achievable without the Inclusionary Housing Fee Ordinance and City Planner Mainez responded Staff’s recommendation is to keep it and that it is a Policy and will defer that to City Council. Economic Development Specialist Stater added that is also the advice of the City Attorney and City Planner Mainez said because that it is in place and that’s part of it and is separate from RDA.

Another question was asked by Chairman Hamerly if the Inclusionary Housing Fee Ordinance is referenced in the General Plan and City Planner Mainez responded that it is and is referenced as a Program and Community Development Director Jaquess added that is why Staff raised it for discussion purposes and should be kept in the Housing Element.

A question was asked by Chairman Hamerly are the Goals and Objectives discussed in the Housing Element achievable if the mechanism is removed from the Housing Element and if the Housing Element is submitted without Item C, is the Housing Element as a stand alone document and without the Inclusionary Housing Ordinance is it achievable and City Planner Mainez responded how Staff has reviewed with the knowledge that RDA does not exist and looked at everything that is in place after RDA is gone and by eliminating this Ordinance, that is already in the Housing Element and would probably make the public see that the Housing Element is adequate. There are no Programs to ensure that the City could set aside Very Low Income units and the State would not accept the Housing Element with the removal of the Inclusionary Housing provision.

Another question was asked by Chairman Hamerly if the threshold is at the State that we not only have to make accommodation or provision for hitting the RHNA numbers, the City has to have an active mechanism so that the City can participate in that and ensuring that is achievable and City Planner Mainez responded the Land Inventory to meet the Lower Income requirement for land availability and how to ensure that those could be set aside for Very Low Income. Chairman Hamerly stated that the set aside portion is where the different Cities / Agencies are getting into trouble when they eliminate the Inclusionary Housing Ordinance and City Planner Mainez responded affirmatively because if it is

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eliminated, there are other Policies in the City's General Plan with the Vision that states the City has to accommodate every economic sector of the community.

A comment was made by Chairman Hamerly then it becomes more onerous because then you have almost taken away the In-Lieu of option saying now that it is a mandate and City Planner Mainez said no, you are not taking it away, that is the way the Ordinance is written that the Developer must build fifteen percent (15%) of their product as Low or Moderate Income. Chairman Hamerly said the Inclusionary Housing Fee is an In-Lieu Fee and if that is taken away, the Inclusionary Housing Fee Ordinance, it is almost forcing the City back into a situation if the developer does not build more than a certain amount of units and there is no In-Lieu Fee and would be more oppressive than the \$3,750 Fee. City Planner Mainez responded if the Inclusionary Housing Ordinance is removed, there is no requirement to build affordable housing in the City and Community Development Director Jaquess added that the fifteen percent (15%) In-Lieu Fee Ordinance was a derivative of RDA law at the time and a mandate for the fifteen percent (15%), while incorporated into the In-Lieu Fee, is no longer statutorily required by State law.

A comment was made by Chairman Hamerly that when the RDA was done away with, the Inclusionary Housing Ordinance lost its Fee. City Planner Mainez responded the how Community Development Director Jaquess is pointing out some history on how it was negotiated and for the Commission to separate RDA

from the Inclusionary Housing Fee Ordinance. The Inclusionary Housing Ordinance is 100% today and in the future implementation of the Housing Element and coincidentally met the requirements of RDA, as well. Community Development Director Jaquess restated the fifteen percent (15%) of the Inclusionary Housing Ordinance is derived from the RDA law and was incorporated into the Ordinance as a local requirement and Chairman Hamerly said then it was not under the auspices of RDA and that one led to the other, but is not linked to it and Community Development Director Jaquess said right.

A comment was made by Chairman Hamerly regarding Staff's request for the Commission's consideration of three (3) Items. Under Item A (Land Inventory), Add Site No. 11 for the 8.3 acre parcel to the Land Inventory at the request of the Property Owner because the Commission re-evaluated the City's Land Inventory associated with the 20 – 30 DU/AC Site. City Planner Mainez added for the record, the Property will be Site No. 11 and that Staff can explain the other Sites.

Chairman Hamerly asked about Items one through three (1 – 3) under Item A or submit as suggested, as written and Commissioner Haller responded submit, as suggested and Commissioner Gamboa that it sounds good.

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Chairman Hamerly asked the Commission what about Item B (Loss of RDA) and Commissioner Haller responded it is what it is and Commissioner Gamboa agreed.

Chairman Hamerly asked the Commission what about Item C and Commissioner Haller responded to request the City Council to review all of the DIFs and see if they can be reduced and Chairman Hamerly asked if the DIFs to be reviewed or ask the City Council the elimination or look at it as a suspension temporarily and Community Development Director Jaquess responded the language in the Draft Housing Element should be studied and evaluated and added that it hasn't happened since it was adopted in 2006. Commissioner Haller added that it's key Element and if eliminated, is it legal and the preliminary feedback is that it's not legal.

A comment was made by Vice Chairman Huynh that he is unclear with the In-Lieu Fees collected funds of \$475,000 and it seems as though there is not a very clear project and asked where does the money go if there is no RDA now and Economic Development Specialist Stater responded historically, there was a plan for the funds, but with the elimination of RDA, that has to be drastically overhauled and a new idea brought to the table and reiterated that there had been, it just no longer exists because they were to partner RDA and the collection of the Fees and will be part of the upcoming process when the Fees are reviewed. At the time that the Fee was collected, it was thought that it would grow much faster because development was strong and probably the City would

have been able to do something two to three (2 – 3) years ago and Vice Chairman Huynh requested the City to look at this and Chairman Hamerly said how funds doesn't go as far today than it would have it 2006.

Another comment was made by Vice Chairman Huynh regarding the merit of a moratorium for six (6) years the City has collected only \$475,000 and the next five (5) years that development will be slow and now what is the purpose of the Program, and here we penalize somebody that would help them and encourage to look at the DIFs and how a lot of Cities have reviewed it, but may not have the Inclusionary Housing Fee Ordinance in place and under the Commission's recommendation to the City Council, to take another look at it as are we doing the right thing or maybe place a hold on it for a few more years.

Chairman Hamerly asked the Commission regarding Item C what is the wish of the Commission and City Council along with reduction or freezing DIFs in general or either a temporary suspension or elimination of the Inclusionary Housing Fee Ordinance along with that in an effort to spur some growth in the City and Commissioner Haller responded that he had heard that it is not legal to eliminate it and Economic Development Specialist Stater added that is not the

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recommendation of the City Attorney, but could present it as an option and that he could speak to.

A comment was made by Chairman Hamerly that he wants the City Council to have at least some direction from the Commission to look at these options and Commissioner Haller responded part of that should be an evaluation of how the City is to achieve the General Plan Goals and the Inclusionary of all of the economic backgrounds and that was the idea of the tool and if that tool is eliminated, how is the City going to achieve that General Plan Goal. Chairman Hamerly said in a zero construction environment, what Goal is achievable if there is no tool, and gave an example and that Vice Chairman Huynh brings up a good point if the units are not being constructed and there is not an active Policy, how are the funds going to be invested in order to achieve the numbers and why collect the Fees when there isn't a plan. With hand in glove with the Inclusionary Housing Fee and other Fees and use the funds in active manner with the Fees already collected and will be collecting and if there is no plan in the interim, why have the people pay for something that there isn't a plan. Community Development Director Jaquess responded that there are no specific projects currently in place, but the plan was always to build affordable housing with that money and that the plan still exists. With the Harmony Specific Plan, there are 3,600 units and would be \$13 Million with the \$3,750 Inclusionary Housing Fee. Chairman Hamerly added unless having a model that reconciles the fifteen percent (15%) Low Income is based on availability.

City Planner Mainez said the Development Application is not before us and is hard to say if there will be 3,600 units and wanted to understand the Commission's Motion if he is overstepping by asking if the Commission supports the Inclusionary Housing Fee Ordinance, but the directive is to study it as Policy, or defer it further and consider maybe eliminating it but does not want to reword the Housing Element Policy, unless that is a Commission's directive. Chairman Hamerly responded of what he has heard more than just eliminating it, is to suspend it, moratorium, reduce it and all of those options are on the table as part of the study and the goal is to try to spur development by a reduction of Fees, so reducing the burden on developers in order to get new products to market.

A comment was made by City Planner Mainez to keep Program No. 5 in place to study the Inclusionary Housing Fee further by December 2014, and the Minutes will reflect the Commission's directive issues and will forward them onto City Council.

Chairman Hamerly all of that is with Item 2 in the Motion with the added items as directed with the Commission and wanted to ensure the Commission has the

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Motion right and is adequately communicates what the Commission has instructed Staff to present to City Council and Community Development Director Jaquess responded based on that record, yes.

There being no further amongst the Commissioners, Chairman Hamerly then called for the question.

A Motion was made by Commissioner Haller and seconded by Commissioner Gamboa that the Planning Commission recommend the City Council direct Staff to submit the 2014 – 2021 Fifth Cycle Housing Element update to the California Department of Housing and Community Development for their approval and that they consider the additional directives / requests that the Planning Commission has made during the discussion.

Motion carried on a 5 – 0 vote with Commissioners Stoffel and Willhite absent.

6.0 ANNOUNCEMENTS

Community Development Director Jaquess explained the Volunteer Dinner scheduled for October 5, 2012, located at the Jerry Lewis Community Center starting at 5:30pm. On October 17, 2012, Discover Highland Night located at Lowe's Parking Lot from 3:00pm to 7:00pm. On November 17, 2012, the City's 25th Silver Jubilee, located at San Manuel Village Events Center starting at 5:30pm. He then further explained the Items scheduled for the Commission's Regular Meeting for October 2, 2012, at 6:00pm.

7.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 8:22pm.

Submitted by:

Approved by:

Linda McKeough, Community Development
Administrative Assistant III

Randall Hamerly, Chairman
Planning Commission

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