

**MINUTES  
PLANNING COMMISSION REGULAR MEETING  
AUGUST 6, 2013**

**1.0 CALL TO ORDER**

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:04p.m. by Vice Chairman Gamboa, in the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present:      Vice Chairman      John Gamboa  
                 Commissioners      Richard Haller  
                                              Trang Huynh  
                                              Mark Rush  
                                              Milton Sparks  
                                              Michael Stoffel

Absent:        Chairman Randall Hamerly

Staff Present: John Jaquess, Community Development Director  
                 Kim Stater, City Planner  
                 Megan Irwin, Associate Planner  
                 Linda McKeough, Administrative Assistant III

The Pledge of Allegiance was led by Vice Chairman Gamboa.

**2.0 COMMUNITY INPUT**

Ms. Ondre Harris, 8125 Marilyn Highland, California, who is a Highland resident, addressed the Commission. She stated that she has three (3) housing units and are approximately 525 square feet for each unit and set up like cottages.

Vice Chairman Gamboa stated that is an Item on the Agenda and Ms. Harris responded that it isn't because she got left out of being part of the Agenda and wanted to come forth to ask the Commission to recommend that she be a part of the Staff Report because it did not include Multi-family units, only single-family residential. She has three (3) individual units on one (1) lot. It was vague because it did not specify in the Staff Report.

Vice Chairman Gamboa asked Staff if that is still part of the Agenda or is that something totally different. Community Development Director Jaquess responded that Ms. Harris is here related to the Item on the Agenda which is Item 5.2 and that is what brought her here to the Hearing and that she can certainly testify during the Public Hearing on that Item.

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Vice Chairman Gamboa explained to Ms. Harris that he saw no reason why that she couldn't participate in the Item and it should be included in the Item and can bring that up to the floor. Ms Harris responded that she was under the understanding that it did not include her particular property because of the uniqueness of the three (3) units on one (1) lot. Community Development Director Jaquess responded that Ms. Harris is "getting into the meat" of the Item which Staff is not prepared to present until the Item comes up for Hearing later on in the Agenda and does not think it is timely to get into the debate about what the Project is proposing, or anything else.

Vice Chairman Gamboa explained to Ms. Harris if she could wait until the 5.2 Item will be brought up and she can be heard at that time and Ms. Harris said okay and then thanked Vice Chairman Gamboa.

Vice Chairman Gamboa asked if anyone else wanted to speak on something that is not on the Agenda and indicated that he has a Speaker Slip from Ms. Theresa Andrawis Castellanos, and she said that she, too, will want to speak on Item 5.2 and did not realize that it was 5.2.

Vice Chairman Gamboa asked if anyone else wanted to speak on something that is not on the Agenda. Hearing none, he proceeded to the next item.

### **3.0 CONSENT CALENDAR**

There were no Items.

### **4.0 OLD BUSINESS**

- 4.1 Materials Board Color Palette for Design Review Application (DRA-013-001) for the Master Planning and Expansion of an Existing Religious Institutional Use (Jehovah's Witness Kingdom Hall), which includes the construction of a new 5,000 square foot Kingdom Hall, two attached caretakers living quarters, new parking facilities, and landscaping improvements. The Project is located at 26993 Ninth Street (APN: 1192-471-12-0000). Representative: Gary Daughy (Continued from the Planning Commission Regular Meeting of July 16, 2013.)

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

City Planner Stater gave the presentation from the Staff Report and gave the historical background to the Commission and the Commission's direction to continue the Material Board Color Palette in that it should be two (2) different colors. She distributed the proposed Color Boards to the Commission for consideration and explained the Original Color Board that had the exterior stucco

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color proposals were “Sand” and “Heavy Dash” and the Applicant has provided two (2) different variations. She explained the colors that Option 1 is with the upper half being “Homey Twist” color and the lower half being “Dark Copper”. Option 2 is with the upper half being a “Parfait” and the lower half being “Calahan” for the Commission’s consideration. She indicated that the Applicant is in the audience for any questions the Commission may have and then concluded her presentation.

Vice Chairman asked if the Applicant would like to make a presentation and Mr. Ron Moreno, who is the Applicant’s Representative, declined the Vice Chairman’s offer.

Vice Chairman Gamboa asked if there were any questions of Staff. Hearing none, he asked if anyone in the audience would like to speak on this Open Item. Hearing none, he then closed the Open Item and then opened the floor for discussion amongst the Commissioners and explained to provide the Commission a few minutes to consider Options 1 and 2.

Vice Chairman Gamboa then asked for a Straw Poll from the Commission on Options 1 and 2. The following are the results; Option No. 1: -0-. Option No. 2: 6.

There being no further questions of Staff, or discussion amongst the Commissioners, Vice Chairman Gamboa then called for the question.

**A Motion** was made by Commissioner Haller and seconded by Commissioner Sparks that the Commission selects Option 2 of the Color Renderings provided by the Applicant.

Motion carried on a 6 – 0 vote with Chairman Hamerly absent.

## **5.0 NEW BUSINESS**

Note: Prior to the Meeting, Staff distributed letters for Item 5.2 for the Commission’s consideration.

- 5.1 An Accessory Sign Review Application (ASR-013-022) for a New Building Mounted Sign for the City of Highland Police Station. The Project is located at 26985 Base Line, Highland, California. Representative: Jim Richardson, Public Works Manager.

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

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City Planner Stater requested the Commission pull this Item from the Agenda because the Item needs to go to a City Council Subcommittee for further consideration prior to being considered by the Commission.

A question was asked by Commissioner Haller if there is a date certain and Vice Chairman Gamboa added if this needs an action from the Commission to be taken from the Agenda. Community Development Director Jaquess responded for the record, to have the Minutes reflect that Staff recommended that Staff pulled the Item from the Agenda.

No formal action was taken by the Commission.

5.2 A proposed Land Use and Development Code Amendment (MCA 013-004) related to modifying provisions for non-conforming single family residential uses City-wide. The location is City-Wide. Applicant: The City of Highland.

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

City Planner Stater gave the presentation from the Staff Report and historical background. She indicated that properties that are single family residences that are currently located in the City's Business Park and Industrial Zones are considered non-conforming and if those residences were to suffer damage from fire, it would not be allowed to be Permitted. If a property owner came forward to the City and requested Building Permits to do an expansion, it would not be Permitted. If it became vacant for more than 180, it could not be reoccupied as a single family residence, the way the Municipal Code currently exists. The City Council had adopted that Policy when there was a General Plan Amendment and Code Updating in 2006, and the idea was to encourage Business Park and Industrial uses to come forward to those areas that are adjacent to the Airport. But since then, Staff has found that the Single Families that become vacant, stay vacant and have deteriorated and are blight in the neighborhood. Some long-time property owners that would like to rehab, expansions, are unable to do that and was not effective necessarily in the way they had hoped it would be. This Item will provide relief in those situations. In addition, she indicated that Staff had received a number of telephone calls regarding the proposed Municipal Code Amendment (MCA). She explained regarding the letters that were distributed to the Commission prior to the Meeting being supportive of the proposed Resolution and forwarding the proposed Ordinance to City Council. Also tonight, Staff received a letter from KCB Towers which the Commissioners have in front them for consideration and then concluded her presentation.

Vice Chairman Gamboa asked if the Commission had any questions of Staff.

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A question was asked by Commissioner Huynh the number of existing homes that fall under this situation and Community Development Director Jaquess responded that there was a mail out of the Public Hearing Notices to homes in the area which was approximately 400 residences.

Another question was asked by Commissioner Huynh regarding how many of that 400 were vacant properties and Community Development Director Jaquess responded that he did not have that data or percentage, but most of the homes are occupied.

A question was asked by Commissioner Huynh in the proposed Ordinance, why is the twenty-five percent (25%) basis for the percentage is for either the addition or operation. Community Development Director Jaquess responded the twenty-five percent (25%) was derived as an extension of a decision made by the City Council on an Appeal item approximately one to one and one-half (1 – 1½ ) years ago where the City Council allowed the property owner up to twenty-five percent (25%) of the existing structures, exterior walls to be torn down and rebuilt and Staff took that same twenty-five percent (25%) number and applied it to potential for expansion and not just remodeling.

A question was asked by Commissioner Stoffel why not fifty percent (50%) and Community Development Director Jaquess responded that it is not in the Staff Report, but there is a provision in the non-conforming use Code that if a house is more than fifty percent (50%) destroyed by fire or earthquake, it could not be rebuilt if it was non-conforming and that is a separate circumstance from the twenty-five percent (25%).

A comment was made by Commissioner Haller that altering is part of exclusion and would not be allowed and references that if something is rebuilt, it should meet the current Building Code which may fall under the “altering” definition which starts changing the structure itself and then asked if there is a need to clarify that if something is rebuilt should meet the current Building Code, but it would not trigger the “alter” exclusion. Community Development Director Jaquess responded that he did not understand Commissioner Haller’s reference to the word, “alter”, but the Code, as it is being proposed, would allow people to alter their home, to modify them, rebuild them, to expand them when it is an existing single family home in the Business Park or Industrial Zones. Commissioner Haller then thanked Staff.

Vice Chairman Gamboa asked if the Commission had any further questions of Staff.

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A comment was made by Commissioner Stoffel regarding Section 3, Part F (Restoration of a Damaged Structure) of the City Council's proposed Ordinance regarding when the structure is damaged fifty percent (50%) or less and may be restored provided the restoration starts within 120 days. He asked what is defined when the start date would be for restoration. Does that mean when a contractor shows up, and City Planner Stater responded that she believed that would be the time when the person would come into City Hall requesting to pull Permits.

Another comment was made by Commissioner Stoffel if the structure had a fire and the person was working with the insurance company and asked if the City would have flexibility there with the time line since he did not read anything else but the 120 days. Community Development Director Jaquess responded the City has been fairly liberal with the interpretation of the start date in that kind of situation and the main area in the Code is when the structure is vacated and that is with 180 days from when the utilities are pulled.

A suggestion was made by Commissioner Stoffel to revise the start date from 120 days to 180 days and to give Staff the authority to grant an extension if it is some circumstances outside of the homeowner's control i.e. insurance, contractors, or the City, etc.

A comment was made by Commissioner Huynh that there has been two or three (2 or 3) cases that has come before the Commission of this issue and then asked if the proposed Ordinance is approved someday, then what is the procedure and how will the homeowners / landlord(s) / property owners be notified of that new requirements. In addition, he asked what happened to the other people that they were already told them they were unable to do it and if it would be retroactive. Community Development Director Jaquess responded that is why all of the people were notified for these Hearings so they would be aware of what was going on.

A question was asked by Commissioner Huynh he remembers the one where the structure had been demolished and that the homeowner cannot rebuild it and have also been of few of them because of the action that was taken in the past and asked if it is a done deal and Community Development Director Jaquess said that it is a done deal. He then thanked Community Development Director Jaquess.

Vice Chairman Gamboa asked if the Commission had any further questions of Staff. Hearing none, he then opened the Public Hearing and invited the members in the audience up to speak on the Item that he had Speaker Slips for. If anyone else wanted to speak after that, please submit the Speaker Slips up and then will be called upon. He further explained there are Speaker Slips on the table in the back

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Ms. Theresa Andrawis Castellanos, representing her mother, Rosetta Castellanos, 26970 Meines, Highland, who is a Highland resident, addressed the Commission. She stated that for years that her parents had owned this property, and when the Code was originally changed, that it prevented her parents from expanding their property. They wanted to have a dining room added on so they could have family get-togethers and that she is supportive of the Item. She was concerned since her father has passed, her mother may not want to stay in their home and asked if her Mother was to sell the property, would this new Code also apply to the new owners and both City Planner Stater and Community Development Director Jaquess responded affirmatively. She then commented that she supported Commissioner Stoffel's comment in extending the time period and have something in place in case circumstances beyond the property owner's control and is a good fail-safe if nothing happens and end up with buildings that are destroyed and later on, could start building from there and could cause law suits, etc. She then thanked the Commission.

Ms. Nancy Medine, 25325 Fourth Street, who is a Highland resident, declined the Vice Chairman's offer to address the Commission.

Ms. Ondre Harris, 8125 Marilyn Highland, California, who is a Highland resident, addressed the Commission. She stated that she has three (3) units on the property and each individual unit is 525 square feet and upon reviewing the Staff Report, it did not specify if her property was included with the Staff's recommendation and she wanted clarification. If her property is not included, the Staff Report, will affect her greatly in that she currently has approval for three (3) years to turn the three (3) units into three (3) office buildings. She stated that she preferred that it remain as Residential, however, if all of the improvements approved as Residential, it would be even more difficult on her behalf if she would turn them into office units and believed that the residents there would agree with her that they would also prefer it remain Residential. She then thanked the Commission.

Vice Chairman Gamboa responded that the Commission will take it under consideration.

Mr. Joseph W. Mays, Jr., representing Mr. Joe Mays, 25142 East Fifth Street, who is a Highland resident, addressed the Commission. He asked if the proposed Ordinance has passed yet and Vice Chairman Gamboa said no, and then explained the procedure regarding the proposed Ordinance that the Commission has to consider it and make recommendation(s) on it and then the proposed Ordinance will proceed to City Council for consideration. Mr. Mays said that he is in favor of changing the proposed Ordinance.

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Ms. Molly Bogh, representing KCB Towers, Inc, 27260 Meines Street, who is a Highland resident, addressed the Commission. She explained that KCB Towers is located in the Business Park / Industrial Designation. She had submitted the letter tonight and is representing KCB Towers that has been in business in the City since 1982 and has 75 full-time employees. She then summarized her letter to the Commission. She indicated that they recognize the difficulties that residential homeowners have when they are non-conforming in the Industrial Area, but does not believe the solution is to put up the problem in perpetuity and say that there are no time limits at all on conversion of those uses. Residential and Industrial uses are inherently incompatible. With Industrial uses, we use trucks, have deliveries, use hazardous materials, generate noise and lights, have storage needs. Residents do not want that in their neighborhood, they want quiet, peaceful surroundings and they do not like industry next to them. She is sure that they have heard the complaints, because she has. She finds that putting these incompatible uses together and saying that they can be together forever with no time limits, that is not solving the problem. Some of the issues with the Staff Report, is how it talks about the City is improving its image and maintaining housing opportunities, but it does not mention Policy 9.5.5 in the General Plan which specifically states that the City shall limit non-conforming development that might compromise the integrity of the Industrial Park Area. Ms. Bogh stated that a copy of that part of the General Plan is attached to her submitted letter. In the Staff Report, it states that an increasing number of home owners wants the proposed Ordinance, but it doesn't say how many. It also does not say if a business owner in the Industrial Area wants the Ordinance or if public opinion is what is driving this Ordinance, let all of the property owners including the business owners have a voice in the Ordinance. The Staff Report states that the home owners in the Industrial Area want to upgrade their homes and occupy vacant dwellings and it does not mention business owners in the Industrial Area wanting to conduct their conforming Permitted uses without interference and complaints by adjacent home owners. The Staff Reports states the Redevelopment Agency can no longer aggregate properties for industrial development, but if the City would stop supporting these non-conforming residential uses, then the private sector could come in and buy these properties for business development. It seems that the rights for non-conforming home owners are given more weight in this matter than the rights of lawfully Permitted business owners and believe this is a bad Policy for the City in that it is going to drive away revenue-generating employers and is not going to solve the problem of incompatible uses; it perpetuates it and exacerbates it by allowing home owners to invest more money in upgrading / expanding these non-conforming dwellings. As long as the City allows these upgrades, and people are obtaining loans to buy / upgrade these homes, it lengthens the amortization period for lenders / home owners and for the City and is a clear violation of the City's own economic development goals and policies in the General Plan. Ms. Bogh stated

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instead of the changes, she is asking the Commission return this back to Staff and address some of these potential solutions that she feels that could be addressed in the proposed Ordinance. She felt uncomfortable there is no time period for amortizing these uses, and should be a fair time period maybe based upon the use of the life of the structure, etc. but set a time frame and it would be clear for everyone and they would know what their rights are. Protect the rights of lawfully operating businesses from the constant complaints by home owners that do not like the operations that are permitted in that Zone. When a non-conforming dwelling unit is vacant / boarded up / abandoned and the use has been discontinued for one (1) year or longer, that appears to be a good time to declare that unit has lost its non-conforming rights. Require any home owner that obtains a loan to upgrade / expand the unit(s) should disclose to the lender that these are non-conforming uses and that they have to be amortized within a certain time frame so that the lenders are aware of that. If the City has money to assist home owners, help qualified home owners to relocated out of the Industrial Areas and get into more suitable areas. Ms. Bogh said this is the first time that she had heard with the number of 400 units and if there happens to be hundreds of units that happen to be Zoned Industrial, and they are in a cohesive existing neighborhood and the people want to stay there, and that the City wants them to stay there, take those areas and Zone it for Residential uses. Do not send them to Industrial and then penalize all of the industries. The City has more Residential Uses than Industrial Use. With the Land Use Map, and Industrial and the (San Bernardino International) Airport located on Fifth Street, and is designated as a truck route to serve the Airport to the Freeway. The business carries steel up and down that street and there is a lot of truck traffic on that street and asked if that is a good place for homes. Ms. Bogh reiterated to send the Ordinance back to Staff for further review and then thanked the Commission.

Mr. Miles Bogh, representing KCB Towers, Inc, 28781 Edward View Drive, who is a Highland resident, declined Vice Chairman's offer to address the Commission.

Mr. Dan McCaig, 25227 East Fourth Street, who is a Highland resident, declined Vice Chairman's offer to address the Commission.

Mr. Kevin Bush, 26540 Sixth Street, who is a Highland resident, addressed the Commission. He stated that he had bought the property through probate usage by two (2) months and is in a Residential Area. He listened to KCB Towers and that they are in an Industrial Area and indicated that if he was going to move into an Industrial Area, he would know who he would be living against and who is going to be there. He stated that both Residential and Industrial can always live together; it happens. He suggested if someone is going to buy all the Residential Area, the person would buy the entire block. That person would come to the City

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and propose a Plan. To restrict people that have residential property there to want they cannot do is wrong. He said how he comes to the City every day and that there are countless properties that have been sitting there for a long time and unable to do something with the property because the time expired and something had happened i.e. someone had passed, etc. or it is a little pocket that is Industrial where it is a 50' X 75' lot and is a burden on the City. Lots that are 50' X 75', people are unable to build or get use out of the lots because with the setback requirements, etc. Why not let it be Residential and get some use out of the property and stop crime whether there is a vacant house, and the adjacent neighbors whether its in a Residential or Industrial Area, it tears the Area down and Code Enforcement is there constantly and the people give up and walk away. The proposed Ordinance is the best thing, so far, that has come along and whatever that is out there, if it was Permitted, and respectable, should be able to be used, no matter what it is. He then thanked the Commission.

Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Ms. Janine Shedlock, who is a Real Estate Broker, representing Mr. Osama Fakouri, of 8037 Tippecanoe, addressed the Commission. She stated that her client had purchased the property three (3) years ago as a duplex and past the time frame and that he could not lease the property as a duplex. Now, he is "caught between a rock and a hard place" where he is unable to lease it as a duplex, which would be the non-conforming, but he is unable to lease it to someone who would go in and spend money in rebuilding the property so it would be the current Zoning because he is up in the air right now. On behalf of her client, he wants something to be resolved so he could lease the property, whether it is non-conforming or conforming so he would be able to make some profitability out of it and to "piggy back" on to some of the others' testimony. The property is vacant, and Code Enforcement is constantly out there and is getting notations the property is not being maintained because he does not have someone on the property. If this situation can be resolved, so that as a business owner, he can move on, because he is unable to sell or lease the property. She then thanked the Commission.

Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Ms. Jamie L. Woods, representing Ms. Rosetta Castellanos, 26970 Meines, Highland, California, who is a Highland resident, addressed the Commission. She stated that she is Ms. Castellanos' daughter and her parents had resided there and during twenty-five to thirty (25 – 30) years, they had put up with all of the noise from Norton Air Force Base and indicated that before her father had passed, and he had talked about the Zoning. Her father was very much in favor of development and said that it was Industrial, it would be quiet for certain hours,

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you would work and then it would be quiet again. Her family's concern and according to some of the residents in the audience, in order to keep the Area maintained and presentable, and health coordinates, and with some of the laws, some people have been restrained them from doing that and has put a restraining on the property and makes blight for the City. She appreciated the opportunity to address the Commission and believed that the Ordinance is a good idea. Yes, it is difficult to co-exist, but she knows that it has been done for many years and eventually, believes that property will turn into an Industrial Area which would be the ultimate goal, but at this time, it is cumbersome to those that are unable to maintain their residence. She then thanked the Commission.

Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Ms. Cathy Jenkins, 27136 Third Street, who is a Highland resident, addressed the Commission. She stated that if the blight is allowed to continue and people who want to buy the Residential property for Industrial, will be able to buy us out at "desperation" prices if the property values are allowed to go down. She has had property there for sixty (60) years and has lived with Norton Air Force Base and is important. Not allowing people to improve their property and do what they need to do so that people are unable to come in and expect to buy the property "for a song".

Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Mr. Doc Nazikoglu, 25091 East Fifth Street, who is a business owner, addressed the Commission. He said he has been in business there since 1979 and had bought the adjacent property when it was Residential use and wants to use it. With regards to the Airport and businesses, he has seen year after year the houses going down and if the residents repair and have both the Residential / Industrial Uses together would be very nice. In addition, with regards to the area between Third Street / Fifth Street / Sixth Street / Tippecanoe / Marilyn used to be Eastwood Farms Water Community. They just spent \$2.5 Million installing brand new water lines and were installed to each lot so if someone moves in / existing people can use it as Residential. Otherwise, it would be a total waste if and that he is in favor of the change. He then thanked the Commission.

Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Mr. Ruben Marquez, 25368 Court Street, who is a resident and has a business, addressed the Commission. He stated that he hopes the Commission does approve the Ordinance and how times have changed and have someone coming in and buy Third Street / Fifth Street, but no one is going to do it right now for the

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next few years. He believes all of the streets there looks like hell. He sees nothing wrong with mixed Industrial Uses being with Residential Uses. If he didn't want to live there, he would live somewhere else. If there is too much noise, it is my choice to live there and not their choice; the business has to operate their business. What is a business without residents, without tenants / people. He reiterated that he hoped the Commission approves the proposed Ordinance and the homes that are abandoned get rehabbed. The Commission works with the community because the community is what makes a City. He added that he managed the house located at 8253 Shirley and was forced to demolish it because of Code violations and now is a vacant lot. He explained that he is not the only one and there are many people who have lost their homes and believed that it was more than 100 homes. He reiterated that he hoped the Commission approves the proposed Ordinance and that he will be able to rehab a few homes in this area. He then thanked the Commission.

Vice Chairman Gamboa asked if anyone else would like to speak on the Item.

Mr. Frank Fakhouri, representing Osama Fakhouri, 8037 and 8041 Tippecanoe, addressed the Commission. He stated that when his son bought the property, his son was going to reside in one (1) house and his brother in the other. He indicated the shape of the building when it was purchased, wanted to completely remodel it. He wanted to put in windows in, and was told no. He thought that the Investment Company that the property was purchased from knew there was a problem with the City. Now it costs him money to send people to clean the property and to keep an eye on it so it is not broken into and makes the City look like a dump and there is not enough money generated to keep the City going and that that street has no lights or sidewalk. He intended to change it to an Industrial Use, it would cost him \$200,000 to improve it. The economy has changed. The Industrial Zoning is good, but most are small lots i.e. 50' X 150' and with all of the required setbacks, there is nothing left to build there and is stuck with it. He has heard some other people in the audience live in the same area which is close to Fifth Street. He is not asking the City for anything, but to leave it the way it was, until the economy improves, then if someone wants to buy the whole thing. He is not going to hold the City or stop someone doing something good for the City. He said if he is told to demolish it, he would demolish it. Then he had the property tested for asbestos and offered the City and wanted to be ensured that he got "zero tax". He said that he had spoken with City Staff and suggested for him to wait. But for how long to wait; you cannot clean a dump like this. If you want the City to improve, this can make the City improve. There may be a shortage of houses, if they want to live in their house, asked why not. That would generate the money for the City also. He hoped the Commission would consider the Ordinance and is not asking for too much and that he is willing to work with the Commission and wants to stay and live in peace. He then asked who will be doing the presentation to City (Council).

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Vice Chairman Gamboa responded and explained they are the Commissioners of the Planning Commission and others present are City Staff. Mr. Fakhouri said that he has lived in Highland for the past four (4) years and he wants the City to grow and he knew when Highland was just farmers.

Vice Chairman Gamboa asked if anyone else 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 female out in the audience asked where could they obtain a copy of the Staff Report and City Planner Stater responded that a copy can be obtained off of the City's Website or have her leave her the information with City Planner Stater and she would provide the female with a copy.

A comment was made by Commissioner Huynh that a couple of years ago, a homeowner had a fire in his house and he had fixed up the house and added additional work to the house and that the City had told him that he had violated the Code. The home owner came to the Commission had pled his case to the Commission and that Commissioner Huynh had a hard time to come up with another idea on how the home owner could keep his family inside that house. There were a couple of other cases with a similar situation also and how those home owners appealed their cases up to City Council. With the direction of City Council, there is this new Code language in front of the Commission. He stated that he had wished this Ordinance had come to the Commission sooner and believed that the first case came to the Commission approximately two (2) years ago. He had remembered that particular situation and asked what good would it do if the City asked the family to move out, the house would be torn down, or boarded up, and then have another vacant lot. He indicated that two (2) years ago, the housing market might not be as great as it is now. With all of the required setbacks, landscaping, parking, etc., a person would not be able to develop an industrial building or "a little shack" there. He said only one (1) person brought that up the same thing tonight with all of the required setbacks with their testimony. If a developer came in and bought the whole block that maybe has five (5) houses on it and make a Business or Industrial Use out of the property with a brand new construction and if someone was willing to do that, that would be great. Commissioner Huynh asked about the number being 400 residential units being affected, some are vacant, but there is potential of 400 more people to spend their money in Highland. In addition, someone is there to look after the property and overall, will enhance the value of the neighborhood. With regards to the General Plan, he agreed, as well as the part regarding the time line and the fire / insurance but with some of the regulations, that person would have to move out is not good. In his opinion, it is good for the Commission to consider this Ordinance. There is a lot of vacant land out there for the Industrial / Business Use for the City that the business people can look at.

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There are some nuisances / complaints from the residents because there is a business nearby and is the same thing with a resident next to a business has to suffer some of the business' activity there too and can work both ways. If there is a non-conformance issue, and it's not fair for the resident to move out. With regards to the housing market, people need houses too. Can you imagine with 400 homes non-conforming, where those people would go if forced to relocate. He stated that he can support this Ordinance.

A comment was made by Commissioner Haller that he is supportive of the proposed Ordinance, had had sat through the same Hearings and thought it was unfair to the property owners / home owners. But thought additional work that Staff should do on the Staff Report before it is brought forward to the City Council and there have been good comments made tonight during the discussion. One is the twenty-five percent (25%) number in that there should be some documentation as to the basis for that, if that was a prior City Council decision, that it should be noted in the record as to where that came from. With reference to the 120 day time limit in order to obtain action is short, especially with dealing with insurance companies is never in a timely manner. He then recommended to consider the longer duration and maybe there is always having an appeal process if it goes over the time period that is specified limit based upon undue circumstances. With regards to some of the issues brought up by some of the speakers regarding interfacing with businesses and some of those points should be addressed in the Staff Report, as well, i.e. noise, etc. that it should be clear that the Industrial Zone noise provisions prevail, not the Residential. He reiterated that some of those points are good points that should be addressed in the Staff Report. He reiterated that overall, he is in favor of it, but there is additional "homework" that should be included in the Staff Report when it is presented to City Council.

A comment was made by Commissioner Stoffel that he likes the idea and is for the change, and is supportive, but there should be some language letting people know that they are a resident, but they reside in an Industrial Area. He agreed with the 180 days time limit, with the Staff's flexibility for extension.

A concern was raised by Commissioner Rush regarding with the discussion on the conflict with the City's Goals in the General Plan and the proposed Ordinance. He then asked if the Commission has to approve as is, or if an adjustment can be made with the City's Goals. He, too, also is in favor of the proposed Ordinance, but there needs to be some consideration in terms of how the City is stating its industrial and economic goals and how this could conflict with that and Staff needs to consider in terms of that.

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A comment was made by Commissioner Sparks that he agrees with the proposed Ordinance, but also thinks that this should go back to Staff.

A comment was made by Vice Chairman Gamboa that he agrees with the proposed Ordinance and with Commissioner Huynh, and how people come to the Commission to plead their case and the Commission's "hands are tied" and have to go with the Municipal Code said and suggested to have the City Council make the decision. Was also in favor to have Staff revise the time limit to 180 days for the appeal process and change the City's Goals so the Goals are not in conflict. He then asked about conducting a straw poll and the feasibility of bringing the proposed Ordinance back to the Commission at a later date with the new language. Commissioner Haller responded that he is confident in Staff and have given Staff some direction on what the Commission's concerns are and will be several weeks, if not longer before it goes to the City Council so he believed to have Staff make the modifications necessary before it is presented to the City Council and consider the Commission's comments and the public's comments and that it was noted that it is a time sensitive issue that it needs to be brought forward to the City Council fairly quickly. He recommended the Commission approve it with some guidelines and direction to Staff to bring it to the City Council with the Commission's comments included.

A question was asked by Commissioner Stoffel how long would it take before going to City Council and Community Development Director Jaquess responded that typically, it takes thirty (30) days before going to City Council.

A question was asked by Commissioner Huynh regarding the property owner who demolished the houses, if the property owner could now come back and say with the passing of this Ordinance, that the property owner could rebuild the house, is that right. If the house has been demolished, that is a done deal, so then it would have to return as an Industrial building, is that right. Community Development Director Jaquess said right and he knows of only one (1) house that was torn down, but the Ordinance only applies to existing single family homes and does not apply to vacant lots,. This proposed Ordinance would not support or recommend that they go out and buy vacant land and build new single family homes in the area because it is not Zoned for single family homes. Commissioner Huynh said that he wanted to make sure that is clear.

Another question was asked by Commissioner Huynh if there are any Code Enforcement cases on existing homes that fall under this Guideline, and if there are, would Code Enforcement put the case(s) on hold until the outcome of this proposed Ordinance, correct? Community Development Director Jaquess said yes, and Staff is aware of that and Staff has taken that into account in the enforcement proceedings .

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A comment was made by Commissioner Rush that an issue that came up with multi-family dwellings, and that too, should also be looked at in regards to this recommendation.

A question was asked by Vice Chairman Gamboa if the proposed Ordinance is approved by the Commission, can the Commission ask for it to be changed, or does it have to return to the Commission. Community Development Director Jaquess responded that the Commission's approval for the three (3) cottages to become offices is just that; it is an approval and does not necessarily require the property owner to do it, if she chooses not to. But the language of the proposed Ordinance, as it is drafted, would not accommodate that property owner's situation or allowing a triplex or a multi-family development on one (1) lot to become a legal use all of a sudden. If the Commission want to expand the proposed Ordinance beyond the single family, that would be a different action / direction that would have to be taken.

A question was asked by Commissioner Stoffel if the Commission could forward on to the City Council the Commission's comments that the City Council should look at this and Vice Chairman Gamboa added and asked if there are any other multi-tenant spaces on this. City Planner Stater responded that Staff does not have a count, but there certainly would be. Commissioner Stoffel stated that he is not talking about apartment complexes, but talking about triplexes, duplexes.

A question was asked by Commissioner Rush if there is a way to ensure that the upgrades twenty-five percent (25%) will write into it and that it does not increase the amount of Multi-family Uses that are in that area. His concern was increasing the number of multi-family and not decreasing the multi-family dwellings uses. City Planner Stater responded the way the proposed Ordinance is written, that it would not create that situation.

A question was asked by Vice Chairman Gamboa if then the Commission needs to amend the Motion to add Multi-family dwelling units and Commissioner Haller responded that Multi-family would need to be defined what that would be and that it does not mean apartment complexes. Vice Chairman Gamboa said that it would be Multi-single Family dwelling units and Commissioner Haller responded affirmatively.

A comment was made by Commissioner Rush the way that the Motion is reading is it is dealing with only single family units and Commissioner Haller said right. Commissioner Rush added that if the Multi-family issue is addressed, then somehow / somewhere that is at Staff level decision whatever that is. Commissioner Haller added that would have to be written in, in order to be included. Community Development Director Jaquess said that the proposed Ordinance would have to be amended to add language to expand it beyond Single-family and to incorporate a provision for Multi-family.

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A comment was made by Vice Chairman Gamboa that he would hate for duplexes or Multi-single family units on one (1) piece of property to be affected if the Commission is going to make this change now.

A question was asked by Commissioner Stoffel what would be then Staff's recommendation if the Commission wants to do that and Community Development Director Jaquess responded, at a minimum, if the Commission wants to expand the provision of the Code, it should include that in with the Commission's recommendation to the City Council.

Another question was asked by Commissioner Stoffel what does the City define it as right now, three to five (3 – 5) or two to five (2 – 5) (dwelling units) and Community Development Director Jaquess responded no formal definition of that. City Planner Stater added that the Commission would want to specify whether or not it would include attached or detached.

A question was asked by Commissioner Rush could it include in such a way that it says present Multi-dwelling units in places and leave it at that and try not to “open the door” for future construction.

A question was asked by Commissioner Rush if the Ordinance could say “present” multi-dwelling units and leave it at that and not “open the door” for future and Community Development Director Jaquess responded as the proposed Ordinance is drafted today, it is for only existing residential units, and is not for new construction and would not “open the door” for new houses or new apartments. If the Commission wants to expand the provisions of what an existing use is, from a single-family and to include Multi-family or duplex or triplex, that should be clarified and could be incorporated into the Commission's recommendation to City Council.

A question was asked by Commissioner Huynh regarding if there is a property with a main house in the front with a granny flat in the back of the property and Community Development Director Jaquess responded that it is not a multi-family, but is considered a single family unit. Commissioner Huynh said that the way is looked at for a single family home is the Zoning Designation is not a house in the front with a granny flat in the back as a duplex and asked if that is right and Community Development Director Jaquess said right.

Vice Chairman Gamboa asked if the Commission had any further questions of Staff.

A comment was made by Vice Chairman Gamboa before the Commission makes a recommendation, wants to ensure and address Commissioner Haller's comments regarding noise, etc. created by Industrial uses and have the

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Industrial uses not be affected or held to Residential Standards because they were there prior to this. Community Development Director Jaquess responded Staff is not changing the Zoning in this process and the Zoning remains Business Park / Industrial and the Standards of the Zone would apply. The only thing that Staff is acknowledging is that if there is single family home, they would be able to repair / expand it, subject to the Standards of R-1 Zoning i.e. setbacks, etc. but reiterated the Zoning is not changing for the property and that it would still be Industrial.

A comment was made by Commissioner Huynh regarding the proposed Ordinance and single family homes and the Commission made some amendments to the time line, etc. revisions, if that is acceptable with the other Commissioners, stay with what is in front of the Commission tonight and when the Ordinance gets to the City Council, if the Council wants to add duplex, multi-family, it would be the City Council's choice. He added that the timing has been two (2) years and we are still talking about this. He also suggested when Staff presents this to City Council, Staff can mention in the Staff Report there is a discussion of multi-residential type of building out there also and have the City Council decide if they want to add that to the Ordinance.

A question was asked by Commissioner Stoffel about adding the Highland Municipal Code for the City Council to look at what the Permitted Uses are as Single Family Residential attached or up to two to three (2 – 3) dwelling units or if Staff wants the Commission to have specific language saying that Multi-family is up to how many units and he stated that he does not want the Commission to make that definition tonight that is going to lock the Commission any way.

A question was asked by Vice Chairman Gamboa if that is correct if that the Commission could make a recommendation on how the Ordinance is written now and add duplex, triplex in the recommendation. Community Development Director Jaquess responded affirmatively and to make sure that it is clear, in the way the Ordinance was drafted, it only applied to properties that were Zoned Business Park / Industrial and the Ordinance was not drafted to apply to properties that are Zoned Commercial for example.

A question was asked by Commissioner Stoffel regarding properties the Commission has been talking about are possibly Zoned Commercial and Community Development Director Jaquess responded that some of the properties were not designated as Business Park / Industrial. Commissioner Stoffel said then it is not going to apply, and Community Development Director Jaquess said as it is currently drafted, it would not necessarily apply. City Planner Stater added that the term, "duplex" or "triplex" might limit situations such as multi-family, three-single family, to a lot would not be considered if "duplex" or "triplex". Vice Chairman Gamboa said that it would have to be mentioned multi-family. City Planner Stater added if the Commission wants to add multi-family

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and have the City Council consider each of those categories, or if that particular term is used, it might limit people that the Commission is not wanting to exclude from the Commission's recommendation.

A comment was made by Commissioner Stoffel then a person could have two to four (2 – 4) properties on a lot that might not be a duplex or four-plex and City Planner Stater said they would have to be detached.

A gentleman from the audience wanted to again speak on the Item.

Vice Chairman Gamboa explained the Public Hearing portion was already closed and given to the Commission for discussion, but he obliged the gentleman and reopened the Public Hearing in order to allow the additional testimony.

Mr. Kevin Bush, readdressed the Commission. He suggested the Commission to approve the Ordinance as recommended, as what it was originally designed for and Permitted. And there are people there have four (4) or five (5) houses on one (1) lot and things can happen i.e. fires like the one gentleman said. Sometimes fires takes eight to ten (8 – 10) months before the insurance company has the investigation to find out, but if it was originally Permitted for ten (10) units, or two (2) units, or three (3) units, that's it; nobody wants to add anything; they just want to use what they have. The Commission does not need to single people out, but if the San Bernardino County originally Permitted for ten to twelve (10 – 12) units, that is what the Zone is going to be until someone will come and buy the property. Commissioner Stoffel responded that the Commission was not trying to single people out and that the Commission was trying to include... and Mr. Bush interjected but it would be simple to include whatever it was Permitted for by San Bernardino County, it what it should be because if I go to the City tomorrow, and if I have a lot with three (3) units, the City will see if there are Permits to ensure that Permits were for the three (3) units. If there were Permits for only two (2) units, then one of the units would have to go and he understands that completely.

Mr. Frank Fakhouri readdressed the Commission and said that he has a duplex and does not mind what the City wants to do, as long as he can occupy, or sell it but he cannot just leave it the way it is as it has been three (3) years like this. If the City wants to keep the Zoning as is, it is fine with him, but the economy is not going to help the City to build Industrial in that area, at this time, because on that street, if a person looks, there has not be commercial buildings there for the past five to six (5 – 6) years and leaves for the homes to be broken into and taking drugs inside, rape, and destroying the building inside. He reiterated that they can either rent it, or somebody can live in it free of charge in order to keep everything green, and now the landscape is dead.

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A question was asked by Commissioner Stoffel if Mr. Fakhouri's property is a duplex and Mr. Fakhouri responded affirmatively that it is a duplex and is located close to Fifth Street and Tippecanoe and reiterated if he could use it as a duplex, he would not have a problem with that.

Ms. Ondre Harris readdressed the Commission and said her situation is not to add to the property, but to keep as a Residential use. Her property is located in the middle and is surrounded by Residential Area and if a person could imagine anything else other than Residential there or just a vacant lot. She is there every two (2) days getting graffiti off the property, she is getting notices and said that she has to baby-sit and be her own security for her own property. She suggested the City should allow for it to remain as it was originally designated. Because of all of the improvement around her property, and yet, it still does not solve the problem or give resolution if it is just sitting there. Something still has to be done.

A question was asked by Commissioner Sparks responded her property is the one with three (3) houses located on Marilyn / Fourth Street.

A question was asked by Commissioner Stoffel if Ms. Harris' property is Zoned Commercial and Community Development Director Jaquess said no, hat her property is in a Business Park Zone. Ms. Harris responded that the gentleman that resides next to her property and can verify that he has to contact her for her stating that her property is vandalized and makes his property look bad and added that her houses have two (2) bedrooms in each unit.

Vice Chairman Gamboa asked if anyone else would like to speak on the item. Hearing none, he then reclosed the Public Hearing and reopened the floor for further discussion amongst the Commissioners.

Community Development Director Jaquess said that he wanted to clarify a point with the language with the proposed Ordinance and the way that the Ordinance is drafted, it did not limit with Business Park / Industrial as it was for all non-conforming single family homes. It did not apply as written to more than single family to multi-family so that is an additional thought if the Commission wants to add that. He reiterated the Ordinance is not limited to just Business Park / Industrial as what he had said a moment ago and that was an error and that it applies to all Zones.

There being no further questions of Staff, or discussion amongst the Commissioners, Vice Chairman Gamboa then called for the question.

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**A Motion** was made by Commissioner Haller and seconded by Commissioner Rush that the Planning Commission approve Resolution No. 13-008 recommending the City Council approve the following:

1. Adopt a Notice of Exemption and Instruct Staff to file a Notice of Exemption with the County Clerk of the Board, and;
2. Introduce an Ordinance to amend Title 16, Land Use and Development Code Section 16.08.150 (Non-Conforming Use Provisions), and;
3. With the added Recommendation to address and include Multi-family units, as part of the Ordinance Introduction,
4. Staff would consider other additional comments made by the Commission such as the 120 day limitation or requirement and to be considered to be part of the Staff Report in the recommendation of the Commission to City Council..

Motion carried on a 6 – 0 vote with Chairman Hamerly absent.

## **6.0 ANNOUNCEMENTS**

Community Development Director Jaquess explained there were no Items tentatively scheduled for the Regular Meeting for August 20, 2013, and the next Meeting would be in September 3, 2013.

There were no further Announcements.

## **7.0 ADJOURN**

There being no further business, Vice Chairman Gamboa declared the Meeting adjourned at 7:22p.m.

Submitted by:

Approved by:

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Linda McKeough, Community Development  
Administrative Assistant III

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John Gamboa, Vice Chairman  
Planning Commission

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