

**MINUTES OF A MEETING OF THE PLANNING COMMISSION
OF THE CITY OF LA CANADA FLINTRIDGE
HELD ON JUNE 25, 2013**

I. CALL TO ORDER: 6:01

II. ROLL: Chairman Der Sarkissian, Vice Chairman Jain, Commissioners Gunter, McConnell and Walker and Community Development Director Stanley, Assistant City Attorney Guerra, Senior Planner Buss, Planners Gjolme and Clarke and Assistant Planners Harris and Parinas.

III. PLEDGE OF ALLEGIANCE The Flag Salute was recited.

IV. SELECTION OF CHAIR, VICE CHAIR AND HEARING OFFICER

Vice chair Jain proposed Commissioner Gunter as Chair.

Commissioner Der Sarkissian proposed Commissioner Jain to remain as Vice Chair.

Hearing officer: Commissioner Der Sarkissian nominated as alternate to Commissioner Gunter.

Vote: 5-0 to approve nominations.

Chair Gunter thanked the Commissioners for the nomination and valued his chance to be chair and was very pleased with work done by former Chair Der Sarkissian.

V. COMMENTS FROM THE PUBLIC: At this time, members of the audience may address the Commission regarding matters that are not on the agenda or matters that are on the Consent Calendar.

Mr. Steve Brown spoke about 3745 Normandy Drive. He thanked staff for the need to revisit case. He gave an overview of the history of the case. He was disappointed at the approval by the Planning Department. He submitted a 10-page appeal of the case. He said that no safe traffic plan was provided. The case has cost his family thousands of dollars. He looks forward to bringing the case to the light of the public.

VI. REORDERING OF THE AGENDA

Commissioner McConnell will leave at 7:00 P.M.

Commissioner Der Sarkissian recused himself from the Sugar Loaf case due to location being close to his house. Commissioner Walker recused herself from the case on Beulah.

Chair Gunter changed the order of the agenda with Patagonia first, Sugar Loaf second, Oakwood third, Avedian fourth, and the zone change fifth. It was later amended to have Beulah first.

Der Sarkissian/Jain Approved 3-0 with two abstentions.

VII. CONSENT CALENDAR

- A. **Minutes:** May 14, 2013 Comments provided by Chair Gunter. Der Sarkissian/Jain 3-0 to approve. (Commissioner Walker was not present at meeting and Commissioner McConnell not appointed to the Commission at that time.)

VIII. CONTINUED PUBLIC HEARINGS

- A. **Hillside Development Permit 13-25/Second Floor Review 13-05/Modification 13-10 (SB)/Director's Review 13-21 (Roof Equipment)/Categorical Exemption; Hartunian; 2121 Patagonia Drive:** Request to allow a new 1,224 sq. ft. second floor on a 14,810 sq. ft. hillside lot. The project also includes a new 50 sq. ft. storage room and 150 sq. ft. of cantilevered area on the first floor. A Setback Modification is also requested to allow retention of existing non-conforming front setback. A Setback of 19'-6" is currently provided, below the 20'-0" requirement for single-story elements on hillside lots. The applicant is also proposing to place the air conditioning equipment on the roof which requires a staff level review. Staff is recommending approval of a Categorical Exemption for this project. (Assistant Planner Harris)

Assistant Planner Harris gave an overview of the project and the changes made to the plans since the last Commission meeting.

Commissioner Der Sarkissian asked if the City had criteria for screening of mechanical equipment in the Zoning Ordinance.

Chair Gunter confirmed that there were criteria.

Commissioner Walker asked about the garage interior. She wanted to know if the washer and dryer were removed, would the garage work in terms of size.

Assistant Planner Harris said yes but that there would be an issue with the stairs in the garage. There was a need to cut back the features in the garage to make it code compliant. The garage is deeper in length than is required.

Director Stanley noted that the proposal qualifies as a new house and has to comply with garage size regulations in the code.

Commissioner Der Sarkissian asked if there is a 20' separation between the stairs and the opposite wall.

Director Stanley said that this was not likely.

The public hearing was opened:

Mr. Hartunian said he was devastated by the garage clearance. There had been changes in the City direction since last week. He was not sure why there was a change. He was disappointed and had no comments.

Chair Gunter asked about the Mr. Hartunian about the A/C equipment.

Mr. Hartunian said if it was too difficult that they would not have a cooler – issues of efficiency. It was doable to move but not efficient. The rooftop A/C will not be visible given the grade of the property. The north side is covered by trees. He had purchased the A/C equipment already.

Commissioner Der Sarkissian asked if there was a possibility to move the water heater to the new storage room being added.

Mr. Hartunian spoke about the location and the impacts on water pressure from extending water lines.

Commissioner Der Sarkissian said that the 18'-1" measurement is not correct. Stairs are at 19'. The water heater is the only obstacle. If the water heater is moved the problems can be solved.

Public hearing closed.

Commissioner Der Sarkissian said that they could remove or replace the water heater with a tankless water heater and there is potential to create a 20' X 20' area. He was happy to see a letter from the neighbor not objecting to the project. He had technical issues with the location of the condenser and the area needed for service. He suggested a removable screen instead. He would like to have equipment screened from the street. The rest of the project was okay and he can make the findings.

Commissioner Walker said that she had visited the site again today. She can make findings for the second floor but cannot make them for the A/C location on the roof. There are other options available on the site. Many others have A/Cs on the ground so there is no compelling hardship to make the findings for the A/C on the house. There is a workable solution for the garage without major work.

Commissioner McConnell said he could make all the findings.

Vice Chair Arun said he had similar concerns regarding the location of the A/C - a solution would be to put it on the south side of gable. He can support it on the roof only if it's on south side of the second floor addition and not as shown on the north side. He can make the findings.

Chair Gunter noted neighbor support for the proposal and he can make the findings. The construction was started without permits and it caused problems. If approvals were in the right order a different A/C would have been purchased.

He could not make the A/C findings for the roof location. There was no compelling reason to locate it there. He can support the first two cases but not the Directors Miscellaneous Review for the A/C on the roof.

1. Reword Condition of Approval # 13.
2. A/C shall be ground mounted to north/northeast of building.
3. Extra access to second floor is prohibited.
4. Plumbing for a future kitchen is not permitted.
5. All Conditions of Approval shall be printed on B&S full sized sets – actual permitted set.

Director Stanley asked for clarification about the plumbing Condition – no stubs in allowed for potential future kitchen.

Vice Chair Arun said that the Conditions of Approvals needed to be clear regarding no kitchen being permitted in the future.

Director Stanley said that there would be no stub for gas oven.

Commissioner Der Sarkissian said that presuming that people might break the law is not considered for other projects. There was no plan to turn it into an independent unit. A/C – putting it in the side yard is worse than putting it on the roof. Moving it elsewhere would work and not be visible for the public – side yard location was noisy. It was not objectionable to put it on the roof.

Commissioner Walker said that they need to follow the codes unless there was a compelling reason. They cannot be arbitrarily. Respectfully disagrees.

Vice Chair Arun asked about the Director's Review for the project.

Director Stanley said that they can be allowed with conditions and approval from the Director. They cannot be visible from off-site and must be adequately screened. Newer large homes have areas on roof for equipment.

Vice Chair Arun said that it was okay if it was on the south side and if it met the requirements.

City Attorney Guerra said that it could be either/or.

Chair Gunter said that they can put it on the ground or build a well on the roof. The well would have to be integral with the building design.

Commissioner Der Sarkissian said that the walls were to be at least 3" above the unit so that the equipment cannot be seen.

Vice Chair Arun said that they should be on the south side if it is on the roof and not on the north side. He said there were precedent setting outcomes from the

code. Need two exits by code for second floor. Condition of Approval 3 - he asked about extra access.

Commissioner Der Sarkissian said what they decided would have to apply to other projects.

Chair Gunter noted that work was done without permits.

Senior Planner Buss said that the code takes preference and they would never allow condition that usurped code for safety issues.

Chair Gunter – not permit outside access. Building without permits caused serious issues. There was nothing wrong with the addition itself but other issues caused concerns.

Commissioner der Sarkissian said no separate access to the unit should be permitted and an appropriate condition should be added. The owner would have to come back for a building permit to build stairs and it would be noticed then. No second entrance required due to the size of the unit.

Director Stanley said that there they could add a condition that no exterior access be allowed unless permitted by the City.

Commissioner McConnell thought that they were fixing a problem that does not exist.

Chair Gunter – roof top with screening – opposed by Commissioner Walker. 20'x20' garage required. A/C not required to be on the ground. Additional plumbing condition removed. Exterior stair requires approval from the City.

Motion: RG/HDS 5-0 (Commissioner Walker except for roof mounted equipment).

Commissioner McConnell left the meeting at 7:08

IX. PUBLIC HEARINGS:

- A. **Hillside Development Permit 13-16/Setback Modification 13-04/Second Floor Review 13-06/Negative Declaration; Avedian; 1936 Hilldale Drive:** Request to allow construction of a new 3,200 sq. ft. house upon a hillside lot. Additionally, a Setback Modification is requested for a substandard front yard setback and for reduced second-floor side yard setbacks at the rear corners of the house. Second-floor review is also required since the new home would achieve a 2-story profile along the downslope to the rear. Staff is recommending approval of a Negative Declaration for this project. (Senior Planner Buss)

Senior Planner Buss spoke about the history of the project.

Vice Chair Jain asked if it was confirmed with Building & Safety if permits can be issued. He asked about the applicant timeline.

Senior Planner Buss confirmed yes, but he will recheck. It was given one-year approval with one year extension permitted. Septic issue became more difficult than expected. The applicant missed his window to apply for an extension. As a result he wanted to get 3-year approval.

Commissioner Der Sarkissian asked about the proposed color for the retaining wall.

Senior Planner Buss spoke about light reflection and the color of retaining wall.

Chair Gunter was concerned that plans didn't match.

Senior Planner Buss had concerns with the floor plans and also with the proposed retaining walls.

Vice Chair Gunter asked about the issuance of building permits if the plans don't match.

Senior Planner Buss had not spoken to building official about this issue.

Chair Gunter asked what the maximum height of retaining wall permitted – 15 feet maximum.

Senior Planner Buss said that they only have conceptual grading plans at this level of review.

Chair Gunter said the plans had not been updated in years.

Community Development Director Stanley said that the Commission was allowed to count height of retaining wall as part of the house height if they were located close to the house.

Chair Gunter asked about new application for the project.

Public hearing opened:

Vahe Avedian said there was a sickness in his family which stopped him from starting project.

Chair Gunter asked about landscaping plans for the project site.

Mr. Avedian said they will start work as soon as an approval is given.

Commissioner Der Sarkissian asked about the color of the proposed retaining wall.

Mr. Avedian said that the plans were revised and that the proposed color of wall was Hickory.

Mr. Avedian said it was the third time he had spoken to the Commission. He spoke about health issues. He wanted to get the project started.

Closed public hearing.

Commissioner Der Sarkissian said he was familiar with the project and had seen it three times previously. He said that the drawings were deplorable. He cannot see changes on the plans. The project has been approved twice before. He was concerned with the downhill look of the project. He thought that the retaining wall was a mistake. It goes 2' above the level of the patio. There would be a huge wall with caissons and lots of fill. The proposed planter will require constant watering and 90% compaction like a solid rock. There will be layers of rock on top of each other. He suggested moving the wall back 30" and deck should project out to provide a shadow. There was a view of shopping center and not of residences from the property. He was less concerned about impacts to neighbors compared to other sites. The site plan showed lot of concrete but it would be better if it was turfblock. The proposed planter is a major issue on a 14' tall wall. He tried to create walls which were not so tall. He wanted a Condition of Approval to have wall material be a dark color. There would be no topsoil on the site after the work completed. They would need to plant trees in the back of the house before construction of the house. There could be lawsuits in the future if dirt flows. The site is not a typical lush La Cañada Flintridge site. This is a classic hardship case and the house could be allowed to move closer to the street. He suggested softening the wall in terms of color and material. He wanted to create a shadow line and reduce height of the wall. He suggested moving the wall uphill 3' and reducing its height. He noted that the soils report was 20 years old and not for the house under review. He said that there were changes in the report over time with a sentence dropped from older report. He said that the grades shown on the plans were inaccurate.

Chair Gunter said it was the job of the PC to enforce the zoning ordinance. This is a new case even if there were previous approvals. They have to use current codes. The City Council has spoken at length about similar projects and sent cases back to the Commission. It was significantly in excess of hillside guidelines (SFG). There is a variety of lots in the city. He noted that Hilldale is a difficult street to navigate. He thought that the view we present is as relevant as the view from. He looked at it as a 2013 case which should adhere to current standards. The current proposal was too excessive in terms of SFG, particularly if you take out one large house on the street. He cannot approve the project as proposed. He was sympathetic to the family but had to follow city ordinances and would have to vote to deny.

Vice Chair Jain said it was a tough problem. He cannot make all the findings but wanted to give the applicant direction to address issues. He encouraged a continuance in order for the applicant to clarify plans.

Commissioner Walker wanted to hear the thoughts of other Commission members. She was disappointed that the story poles were not there as she had not seen them before. She had the same feelings as Chair Gunter. She was concerned about bulk. The massing and bulk were out of alignment with the neighborhood. House is excessive. They can build a house compatible with the neighborhood.

Community Development Director Stanley gave an overview of options regarding an appeal versus a denial. There was time issues regarding a redesign of the project. Any decision made by the Commission can be appealed to the City Council.

Senior Planner Buss confirmed that there are time limits.

Vice Chair Jain asked to explore intentions of the applicant and if the deadline can be met.

Community Development Director Stanley said that the negative declaration can be redone.

Chair Gunter confirmed that no re-noticing was required if date certain.

Senior Planner Buss said that they can ask for one.

The Public Hearing was reopened.

Vahe Avedian wanted a continuance.

Chair Gunter asked the applicant if he understood that it needed redesign to 2013 standards.

Commissioner Der Sarkissian said that the bulk effect of removing 500 sf would not be major. Instead, landscaping, walls and side yard setbacks were more important. It is not really a two story house for setback issues. The project was approved twice before. Time has run out and a complete change would be severe.

Chair Gunter said that 3 Commission members wanted redesign out of the 4 present. One Commissioner wanted changes rather than a redesign. If denied it can be appealed to the City Council, or it can be continued.

Assistant City Attorney Guerra said he would recommend date certain for the project.

Vahe Avedian said that he understood. He said that a lot of money had been invested and he appreciated continuance as he proposed to build a house. It

could create heartbreak if denied for family reasons. He asked why they can't have uncertain date.

Assistant Attorney asked the applicant how long they needed to redesign.

Vahe Avedian said that they would have started construction before. He noted that some house has to be biggest on a street.

Chair Gunter asked about fees if it started from scratch– over \$6,000.00 in fees.

Vahe Avedian asked about how long a continuance?

Vice Chair Jain suggested October for the continued public hearing.

Assistant Attorney Guerra was okay with the first meeting in October which was 3 + months away.

Community Development Director asked how much redesign needed.

Vahe Avedian said they could work with that date.

Chair Gunter cautioned that one Commission member was absent from the meeting. He may not get unanimous decision. He spoke about compatibility and need to make findings. He said an excess of the SFG okay but 70% too much and he suggested a 20% reduction in size.

Vice Chair Jain said that the proposal was way above the SFG for the property and that they needed to re-valuate the proposal. This change should come from the applicant. He was agreeable to reduce the front setback to reduce the height of wall. The Director can provide guidance. He was comfortable with the proposed setbacks. He asked to reduce the height of walls to 10'.

Commissioner Der Sarkissian thought that the house was only visible from below. Costs make it impractical to reduce the size of the house. His concern is its appearance from the street and not below. The front of the house needs to be softened. Wall size can be reduced. Project needs a professional leader. He had fewer problems with size and setbacks.

Commissioner Walker said that setting the proposed house back more would enhance the property. She had mixed emotions about the front setback as a safety issue. The proposed house looked like one story from the street. She would like to see more greenery in front of the house. Massing was a major concern and as was size as its too big and not compatible with the SFG for the property.

Vahe Avedian said that the street is a local street only.

Commissioner Walker said that the size was too much.

Chair Gunter noted that 3 of 4 Commissioners said that the house is too large. Size is the main issue. Need minutes timely.

Vice Chair Jain said that the applicant can visit the department and speak to Commission members.

Gunter/Walker to continue to first meeting in October. 4-0 Approved.

- B. **Conditional Use Permit 488/Hillside Development Permit 13-30 (Dir.)/Categorical Exemption; McDonnell; 1336 Sugar Loaf Drive:** Request to construct a new swimming pool within the required front yard setback. The pool location qualifies as front yard since it is along the lot's shortest frontage (which is typically used as the front property line) and was considered front yard during review and construction of the existing residence. The pool would be over 100 feet from the street and would not be visible considering the significant elevation change between the pad level and Sugar Loaf Drive. Staff is recommending approval of a Categorical Exemption for this project. (Planner Gjolme)

Commissioner Der Sarkissian recused himself as a neighbor to the project.

No staff report was required.

Public hearing opened and closed.

Vice Chair Jain said he visited the site but could not get into the property. He noted proposal cannot be seen and he supported the project.

Commissioner Walker visited site and got in to the backyard. It cannot be seen and she supports it.

Chair Gunter visited the site and noted letters of support and can easily make findings.

Walker/Jain 3-0 approved.

- C. **Floor Area Review 13-01/Categorical Exemption; Albano/Ballesteros Designs; 4342 Oakwood Avenue:** Request to consider a Floor Area Review to construct a 416-square foot two-car garage, a 768-square foot cabana with a 215-square foot covered patio, and two balconies with a combined area of 15-square feet on a lot with an average lot width less than 80 feet. The existing house with the project would have a total floor area of 5,884 square feet. Staff is recommending approval of a Categorical Exemption for this project. (Assistant Planner Parinas)

Commissioner Der Sarkissian returned to the meeting at 7:12 P.M.

Assistant Planner Parinas gave an overview and noted changes to the Conditions of Approval.

Commissioner Walker asked if they can have a bar sink.

Community Development Director Stanley said that a kitchen is allowed if they comply with the Zoning Code.

Public hearing opened:

Owner had no comments.

Public hearing closed.

Vice Chair Jain visited the site and considered it a modest proposal and wanted Conditions of Approval clarified.

Commissioner Der Sarkissian visited the site and was happy with the project. The front is being immensely improved. He mentioned the garage and how it will not be a problem. He supported the project and can make the findings. Commissioner Walker visited the site and understands the constraints. She can support with updated Conditions of Approval.

Chair Gunter visited the site and can make findings. Appreciates the work of the architect and said it was a good addition to the neighborhood.

Jain/Walker Approved 4-0
With revised Condition of Approval.

- D. **Zone Change 13-04/Negative Declaration; City of La Cañada Flintridge; CPD Zone:** Request Adoption of an amendment to the City's Zoning Ordinance to add "fortunetellers" and similar to Section 11.14.020.C. (Uses permitted, conditionally permitted and prohibited) in the Community Planned Development (CPD) zone. Staff is recommending approval of a Negative Declaration for this project. (Senior Planner Buss)

The Commission stated they did not require a presentation, having read the staff report. The Commission started by asking questions of staff.

Commissioner Jain asked why the use is not included in the Downtown Village Specific Plan (DVSP).

Senior Planner Buss stated that the use must be allowed as it is a free speech issue. He considered the use to be an amusement. He gave the Planning Commission options as to where it could go in the code. He noted that the City Council will make the final decision. There is currently no provision in Zoning Ordinance to permit the use. Staff's recommendation is to specifically define the use and regulate it to one zone, but not the Specific Plan.

Chair Gunter asked if it came up as matter of law.

Senior Planner Buss stated that it was law motivated by a phone call. It is recommended outside the DVSP so it would not take up retail space.

Commissioner Walker asked if the DVSP limits the first floor to retail uses anyway.

Director Stanley poses the issue to the Planning Commission of what sort of use is fortunetelling. He notes where the use could go in the DVSP if it were interpreted to be a service business or an office use (limited to second floor with CUP in Mixed Use 1 and anywhere in Mixed Use 2).

Commissioner Jain sees it potentially as a therapy, or counseling, because it is a very elaborate science. He states that he disagrees with the amusement or recreational interpretation of the use. He sees it as an office.

Commissioner Walker summarizes that if it is treated as an office in the DVSP, it would need a CUP and is limited to the second floor.

Chair Gunter asks the Commission if the real issue is the categorization of the use as an amusement. He asks the Commission if it would be more favorable as a counseling use (office) than amusement.

Director Stanley adds the comment that if you think of it as a religion, then the Commission could place it in the Institutional zone.

Commissioner Jain compares the use as no different than going to a church and listening to sermons, or listening to a meteorologist making a forecast for the following days. He considers the use more of a science.

Commissioner Der Sarkissian disagrees completely. He states the use is not a science, it is pure entertainment. He objects to bringing that label (fortunetelling) into the Zoning Ordinance. He states that he would rather have an internal memo that states that we classify it as entertainment or office, whatever, and that's it, finished. He states that he is of the complete opposite opinion as Commissioner Jain. He objects to fortunetelling being listed in the Zoning Ordinance.

Commissioner Walker states that she believes there is a difference between psychic shops and fortunetelling. She would expect psychic shops to be a retail use where one could buy tarot cards and such, whereas fortunetelling would be more like Commissioner Jain's interpretation of counseling. There is a difference in that a shop implies retail to her.

Director Stanley recalls that the City had a shop once before, which had a retail component. The psychic portion had to be minor, subordinate to the retail use.

Commissioner Der Sarkissian proposes that the use be classified as an office and be done with it.

Chair Gunter asks if it would be possible to have a written policy that says that we permit fortunetellers and psychics under the category of... and then pick one of the categories and add that to the Zoning Ordinance. He asks if that meets the intent.

Senior Planner Buss responds that it would not be satisfactory because it is not ordinance; it is still just interpretation or policy. It is not definitive enough, not black and white. It needs to be somewhere in the ordinance.

Commissioner Jain states that office is a perfect use and institutional is a perfect use because these work as counseling or therapy.

Senior Planner Buss noted that the use is recommended for CPD only, not the DVSP.

Chair Gunter asks if it would be appropriate to make fortunetellers no. 50 under "Services" in the CPD zone with a CUP.

Commissioner Walker asks if it should be just added to another use line, like no. 18, since not all uses are all listed separately.

Director Stanley offers placement in no. 27, which is "Offices, business or professional."

Commissioner Jain states he believes that is the perfect place.

Commissioner Gunter reads the proposed use listing aloud: "Offices, business or professional, fortunetelling" followed by lots of laughter. He comments that it does not sound that good when read aloud.

Commissioner Walker asks why not no. 18 (health clubs, gyms).

Chair Gunter responds that these uses are attended by large groups of people at certain intervals which are not how fortunetellers would operate. The use would be better compared to a barber shop where one person is served by one person; or similar to counseling.

Director Stanley notes that if we had a counseling use it could be listed with that.

Senior Planner Buss also suggests that it could be listed under services, to which Commissioner Walker comments that she thought staff was steering the Commission away from that. Director Stanley adds that Commissioner Der Sarkissian did not want it under services. Senior Planner Buss comments that he did not want it in the Zoning Ordinance at all.

Commissioner Der Sarkissian reiterates that he does not want the word in the Zoning Ordinance. He does not mind that there be a category for people to avail themselves of that kind of use or entertainment. He does not believe that "fortunetellers" is a real word. He prefers an in-house memo that categorizes it as an office and go from there. He asks if it is true that we have to have the word in the ordinance.

Assistant City Attorney Guerra clarifies that word does not have to be there. What the Supreme Court case law said was the city prohibited the use, and the court came back and said the use cannot be prohibited. Therefore it must be allowed and the question is where. We can do a policy that states it is similar to a use, but the problem with that is if this use was ever to come back in the future, they can challenge and say "well, that doesn't have the force of law, it is just an interpretation and we want to challenge that" versus if we have it in the ordinance, it's in the ordinance (it's law). Since it is a use that is allowed, it is better to actually list it in the ordinance. That's the legal advice.

Chair Gunter leads off that he is good with the use being a CUP and in the CPD zone. He suggests adding a new use line that would include counseling services and other similar activities. He is also equally in favor of adding "fortunetellers" as the 50th item under Services in the CPD use list.

Commissioner Jain questions about the CPD zone where offices have a CUP. He asks what kind of impact does fortunetelling bring to any store or any permitted use by having that. He asks if parking is an issue, is noise an issue, is color an issue. The business will have to go to the Design Commission anyway. The Design Commission will take care of the sign and the color because that is already the ordinance. He asks: what is the real impact the use will bring. He doesn't see any impact of the use.

Commissioner Der Sarkissian states that the impact it has is that it is taking away pedestrian level space that should be used for more retail. That's why he wants it in the office and he does not want the wording in the ordinance. He wants to internally agree that it is allowed anywhere there is an office and follow the office requirements. He does not think it has an impact and it does not need to be a CUP. He thinks it is taking energy from the City and dollars and time to sit down and review the impact of one person talking to another person. He says we should just have an agreement that we classify it under office and be done with it.

Chair Gunter reminds the Commission that offices still require a CUP.

Commissioner Jain suggests it be placed as no. 50 under Services as a permitted use and that's the end of it.

Commissioner Walker states that she thinks it should have a CUP.

Senior Planner Buss reminds the Planning Commission that the Staff Report shows the code section that identifies what a Conditional Use Permit is normally used to analyze. The only reason that staff was suggesting the CUP was to look at potentially regulating hours of operation.

Some of the Commissioners indicate that this is probably not necessary.

Commissioner Walker states that H. (Regulation of operating hours for activities affecting normal neighborhood schedules and functions;) and I. (Regulation of signs including outdoor advertising;) are potential reasons to require a CUP. She comments that signs are a notoriously an issue with psychic related businesses.

Commissioner Der Sarkissian reminds the Commission that signs are a separate issue and the City has an ordinance and a Commission that addresses signs. This issue is taken care of by these and the Planning Commission does not have to be concerned with signs.

Commissioner Jain asks why we need to have additional regulation. We don't regulate the operating hours of a bakery, there is no need to regulate the hours of fortunetellers.

Chair Gunter states that it should be a separate category and that it should have a CUP just to see how it works out and if it is not a problem we can change it back to a permitted use. The City is still letting them in. It could turn out that no one wants to come in. CUPs don't take much effort to get.

Commissioner Jain suggests the Minor CUP process that is already in place and that it is most likely that this is what the use would qualify for. Minor CUPs are for entry into an existing building where there is very little or any construction.

Chair Gunter suggests making the use no. 50, fortunetellers, psychics and related uses, with a CUP. If it turns out to be a hindrance, it can be revisited and changed to a permitted use.

Director Stanley summarizes with one Commissioner saying no CUP, two saying yes on CUP, and one does not want it in the Ordinance. So we are going to have a 2-2 vote and nothing will pass. He asks if the Commission should wait until Commissioner McConnell returns. He fields a question as to whether it can be called psychic services. He responds that it can be called anything, except that no one has called it yet.

Commissioner Der Sarkissian states that there are people who do this from their home. There are no impacts including noise and traffic. The only thing is not to give it a valuable space - our retail space. Just have it as permit-able – rent an office and that's all.

Chair Gunter asks if staff can come back and address whether Commissioner Der Sarkissian's suggestion is able to be accommodated.

Senior Planner Buss states that staff did do that already in the Staff Report – no. 6 (Project Analysis). This is where staff addressed the issue of not wanting an interpretation (comparable determination) because the interpretation could be spread to an area of the City that we don't want it to be spread to (valuable retail space). The point was to move it out of the DVSP and give it a definitive location and whether it is a CUP under amusement doesn't really matter. But the point was to have it in written form in code to meet the requirements of the court case.

Chair Gunter reiterates whether Commissioner Der Sarkissian's comments can be accommodated by just having a written policy that the use is equal to no. 27 in the CPD (office).

Commissioner Der Sarkissian asks if there is an office designated area in the City where we would object to having a fortuneteller renting. Is there such a place in the community.

Senior Planner Buss responds that in the DVSP it is our intention to maximize retail space.

Commissioner Der Sarkissian remarks that offices would not be allowed on the ground floor under the current ordinances.

Senior Planner Buss replies that it is allowed in the office zone if you are allowed in the certain offices with a CUP. We do have offices that are allowed with a CUP that are currently in place on the first floor in the DVSP.

Chair Gunter asks if given the locations where there are currently offices with CUPs, is there any location where allowing a fortuneteller there would be a bad idea.

Staff responds probably not.

Chair Gunter opens the public hearing.

Finding no one wishing to speak, the Chair closes the public hearing.

Chair Gunter summarizes by saying that one Commissioner will not vote for having the use listed in the ordinance, and he will not vote for any listing without a CUP requirement.

Commissioner Walker asks whether psychic services with CUP are being treated the same as office uses. She believes this can be determined tonight. She would like it treated like offices and called psychic services.

Chair Gunter reiterates that it would be the Planning Commission's preference that the City should have a written policy that stated that the City will review

fortunetellers, psychics and spiritualists and other otherworldly enterprises as if they were item no. 27 – office and professionals. That is their preference.

Assistant City Attorney responds that all the Commission is doing is asking the Director to create a policy. If you do this it does not go to the City Council.

Commissioner Der Sarkissian moves that an internal policy be created that states fortunetellers, and any other labels that the Commission wants, are allowed, and would be classified as no. 27 (offices, business and professional). Commissioner Jain seconds. The motion carries on a 4-0 vote (Commissioner McConnell absent).

Commissioner Jain asks if someone opens a store in the City, is it considered retail if they sell goods. Staff responds affirmatively, provided the majority of the use is retail, it can be most anywhere in city.

X. OTHER BUSINESS:

- A. **Substantial Conformance Determination for SFR 10-02/FAR 10-02; Chang; 4344 Beulah Drive:** The Director approved a request to modify the requirement for additional landscape screening.

Commissioner Walker recused herself and left the room.

Commissioner Der Sarkissian mentioned letters from neighbors in support.

Opened public hearing: No public comment.

Vote: Jain/Der Sarkissian 4-0 to approve.

XI. REPORT OF DIRECTOR'S REVIEWS

- A. **Hillside Development Permit 13-21/Director's Miscellaneous Review 13-14 (SB) at 5571 Stardust Road.** Approval of a 319 sq. ft. single-story addition that encroaches into the 7'-6" required east side setback on a hillside lot.
- B. **Hillside Development Permit 13-26 at 515 Venado Vista Drive.** Approved the removal and replacement of an existing raised wood deck located at the rear of a one-story house on a hillside parcel.
- C. **Hillside Development Permit 13-31 at 5222 Stardust Road.** Approved construction of a new pool and waterslide within the back yard of an existing single-story residence on a hillside lot.
- D. **Hillside Development Permit 13-29 at 5233 Donna Maria Lane.** Approved a 390 sq. ft. addition to an existing single-story residence on a hillside lot.

- E. **Hillside Development Permit 13-28/Director's Miscellaneous Review 13-20 (SB) at 5329 Linda Vista Drive.** Approved construction of a new 612 sq. ft. pool with spa on a hillside lot.

XII. COMMENTS FROM THE COMMISSIONERS

Vice Chair Jain asked what arborist review is for.

Community Development Director Stanley mentioned memo prepared by Assistant Planner Harris.

Commissioner Walker passed by and may have seen more footing being dug as new boards there.

Asked about house on Greenridge with waterfall and pool etc. Concern about date - uncertain timing.

Community Development Director Stanley will ask Assistant Planner Harris about it. Out of country given as reason.

Assistant City Attorney Guerra said it was case for having a date certain.

Former Chair Der Sarkissian said thanks for support over last year from the Commission and staff. In his travels this is the best he has seen it.

New Chair Gunter said thanks for support.

XIII. COMMENTS FROM THE DIRECTOR

Community Development Director Stanley spoke about the tree ordinance and call up provisions.

XIV. ADJOURNMENT: 9:30 p.m.