

MINUTES OF THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION AND PUBLIC MEETING OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, HELD THURSDAY, JANUARY 14, 2016 TOWN COUNCIL CHAMBERS.

Chairman Jarchow called the Regular Meeting to order at 6:00 p.m. Roll call was as follows:

ROLL CALL:	<u>Present</u>	<u>Absent</u>		<u>Present</u>	<u>Absent</u>
John Jarchow	<u>X</u>	<u> </u>	Timothy Williams	<u>X</u>	<u> </u>
James Snitzer	<u>X</u>	<u> </u>	Errol Heslop	<u>X</u>	<u> </u>
Rob Ingels	<u>X</u>	<u> </u>	Adam Staley	<u>X</u>	<u> </u>
Richard Smith	<u>X</u>	<u> </u>			

STAFF PRESENT: Evelyn Racette, Town Manager, Commander David Sargent, Jill Akins, Assistant to the Town Clerk and William Sims, Town Attorney (attended by teleconference).

ITEM NO. 3, CALL TO THE PUBLIC:

There were no requests from the public to address the Commission at this time.

ITEM NO. 4, APPROVAL OF THE REGULAR MEETING MINUTES FOR OCTOBER 29, 2015:

COMMISSIONER SNITZER MOVED TO APPROVE THE REGULAR MEETING MINUTES FROM OCTOBER 29, 2015 WITH THE FOLLOWING CORRECTIONS ON PAGE THREE: LINE EIGHT CORRECT 2105 TO 2015 AND LINE EIGHTEEN CORRECT “TITLE 16” TO “TITLE 17”. COMMISSIONER STALEY SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY WITH COMMISSIONER INGELS ABSTAINING.

COMMISSIONER SNITZER MOVED TO AJOURN THE REGULAR MEETING AND MOVE INTO THE PUBLIC HEARING. COMMISSIONER SMITH SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

ITEM NO. 5, INFORMATION/DISCUSSION/LEGAL ACTION RE: CONDITIONAL USE PERMIT – 447 S. WOODLAND LANE; COMMUNITY COUNSELING CENTERS:

Evelyn Racette, Town Manager, said the issue tonight is the proposed Residential Care Facility to be located at 447 S. Woodland Lane in Pinetop. She said the home is located in a R1 district, and said Community Counseling Centers had followed all of the required procedures to obtain a Conditional Use Permit. She said residential care facilities are protected under the Fair Housing Act and through the Americans with Disabilities Act. She said Town and local governments cannot restrict where the facilities are located through land use. She said Community Counseling Centers had met all of the requirements for the Conditional Use Permit (CUP), and the Town Code requirement of one parking space for each staff member. She said there are typically two staff members and one manager during each shift, and said the requirements for the parking are met by providing three spaces behind the fence and a minimum of four spaces in the driveway. She said occupancy is also met by the two hundred and fifty square feet per person for each occupant. She said staff had reviewed this application thoroughly, and said staff recommends this would be permitted in this area. She said there had been two notices of the Public Hearing that were published in the White Mountain Independent so residents would be adequately notified, and said this was above and beyond the requirements. She said

property owners within three hundred feet of the proposed property had been notified by mail, and said thirty letters were sent to property owners. She said three letters were returned undeliverable, and said staff worked to locate a mailing address for the returned letters but could not find another address to forward the letters to. She said Town staff acted in good faith to notify all residents. She said a sign was posted in front of the proposed property, but said due to weather conditions the sign was blown over during a snow storm, and said the sign is now back in place. She said, once again, this was above and beyond the required notification of neighbors. She said the Town posts the property and advertises in the paper, but said the Town does not have to post on the property but does so as a common courtesy. Williams Sims, Town Attorney, said the Town Manager had done a good job describing the law, both Federal and State. He said in the state of Arizona there are statutes that allow companies running this type of facility to operate them and prohibit Cities and Towns from imposing land use restrictions. He said an Ordinance had been adopted allowing the Town to require certain certifications. He said the Conditional Use Permit would look for required licenses and certificates and permits issued by the state or other governmental agencies to operate the facility. He said the Town tried to adhere to a fine line between not violating the State Statutes, by not imposing any land use requirements, but exercise the Town's power to make sure appropriate certifications, licenses and permits had occurred. Commissioner Staley asked if this is the reason why staff is providing a position on this issue to the Planning and Zoning Commission today, and secondly he would like staff to confirm this kind of use is permitted under existing zoning so every property owner is aware there was this potential use of a property when they bought their property originally. Ms. Racette said it is her practice to make a recommendation on every agenda item and every action item that is presented to both the Town Council and the Planning Commission. She said the Planning Commission had not worked with her for very long, but said she makes strong recommendations. She said she is recommending this Conditional Use Permit not only because of the legalities, but also because the Town Code allows for this to happen. She said her job is to implement the code, and said she sees no reason to deny the permit. She said, additionally, the Fair Housing Act had been in effect since 1988, and said a Residential Care Facility can happen anywhere. She said residents in any zoning can have this happen, and said, yes, residents are on notice of this potential. Commissioner Heslop asked how staff determined the appropriateness of this facility in the neighborhood, and said he had communication with many residents in the area, and said he had not spoken with one single individual that wanted this facility in their neighborhood. He said the neighborhood where this facility would be located has one road in and the same road out. He said the families had lived there for many, many years, and asked how the Town deems it appropriate. Ms. Racette said it cannot be denied on the basis of land use, and said this is very important to remember. She said staff looked at this objectively and made sure all conditional use requirements are met. She said Community Counseling Center had met all of the requirements, and said she recommends the Commission to approve the Conditional Use Permit. She said the Town does believe this is appropriate, and said she recommends the Commission to pass this. Chairman Jarchow asked regarding occupancy in Town Code Section 17.104.160 (G) (1) states "maximum occupancy shall be ten residents", and said in Town Code 17.104.160 Residential Care Facilities B states "A Residential Care Facility is an establishment or business that serves six (6) or fewer persons exclusive of the operator of the facility." He said there is a big difference between six and ten residents. Ms. Racette said occupancies of eleven or more shall be allowed in C1 and C2 zoning only, and said anything above that would be zoned for commercial use and anything below would be in a residential use zoning. Mr. Sims said this was a very good question, and said the reason for the numeric distinction is required by State Law. He said this was referred to in the staff memo when the Town Council approved the Ordinance. He said the Town cannot impose land use for a facility with six or fewer residents, but said if there are more than six residents up to ten, then the Town is allowed to impose land use. He said the Town can restrict certain facilities in certain districts with more than six occupants. Chairman Jarchow

asked if the Commission was approving a maximum of six residents or a maximum of ten residents. Ms. Racette said approval would be for a maximum of ten residents, and said Town Code Section 17.104.160 (G) (1) states "maximum occupancy shall be ten residents in residential Zoning Districts." Mr. Sims said the approval would be only for the particular zoning district, and said the Commission cannot restrict six or less in other districts. He said it is a fine line to address the concerns of the community and abide by the law. He said he, Ms. Racette and the Planning and Zoning Director tried to figure out requirements that are legal and addressed them with the staff recommendation. He said this is not land use, and said there are other types of requirements to make sure the facility has the appropriate licenses. He said once the facility is over six and is ten residents then the Town is allowed to make sure the facility is in certain districts. Commissioner Ingels said he had heard twice, once the facility is over six, like ten, and asked what the difference between six and seven residents is. Ms. Racette said to clarify; the Town Ordinance adopted by Town Council G (2) states "The maximum occupancy of any Residential Care Facility in any residential zoning district shall be ten (10) residents." Mr. Sims said it is a cap. Chairman Jarchow said on the application the recommended approval by staff would be to allow up to ten residents. Ms. Racette said correct, and the square footage of the home would provide for fifteen people, but said fifteen people would not be allowed. Chairman Jarchow said the staff recommendation says if the applicant fails to comply with any certification requirements then the Conditional Use Permit is null and void. Mr. Sims said that would be correct. Chairman Jarchow said there is pressure on the applicant to abide by the Town Code. He said 17.104.160 (H) "A Residential Care Facility shall not include any persons whose occupancy would constitute a direct threat to the health or safety of neighbors or other persons. He said a Residential Care Facility would not include any person who claims to be disabled solely on the basis of having been adjudicated a juvenile delinquent, having a criminal record, or being a sex offender." He said if any of these things did occur the Conditional Use Permit would immediately be null and void. Mr. Sims said the applicants had called Ms. Racette and him to make sure they were complying with the state law, and said they correctly pointed out the Town would not be able to impose land use. He said (H) would not be land use, but said it would be public health and safety. He said the applicant must comply with all requirements, and said there would be a due process of a violation and said the applicant would be given an opportunity to correct the violation. He said if the applicant did violate (H) it would be grounds to cancel the permit. He said it would not be a Zoning Code enforcement, but said it would be a state requirement that would be violated if the residence had a juvenile delinquent, a residence with a criminal record or a sex offender on site and would be in violation of the Conditional Use Permit. Commissioner Williams asked for clarification on (H). Ms. Racette said the Residential Care Facility would not include any person that claims to be disabled solely on the basis of having been a juvenile delinquent, having a criminal record, or being a sex offender. She said if this was the only claim to a disability they would not be included at the residence. Commissioner Heslop said a person cannot be arrested for public intoxication because alcoholism is considered a disease or an illness, and asked if the facility should be a Residential Care Facility or a healthcare facility. He asked how much time a resident would spend in counseling. Chairman Jarchow said these would be questions for the applicant. Commander Sargent said public intoxication is not against state law, but said having an open container is against the law. He said regarding the facility it would be a different issue, and said public intoxication is not against the law. He said to operate a motor vehicle intoxicated is another issue, having an open container in their possession or to be drinking in public are arrestable offences. Commissioner Staley asked what protocols and/or procedures would be in place for the request or demand for information related to the applicants residents are available to the Town, and asked if there are any reporting requirements by the State or the Town requesting a list of residents to do background checks on a case by case basis. Ms. Racette said the applicant must provide the Town with written certification that each and every resident of the Residential Care Facility is a qualified individual with a disability once a year between

December 1st and January 31st. Commissioner Staley asked if that would be when the resident is admitted and once a year thereafter. Ms. Racette said the Commission would be able to ask for that as a condition of approving the Conditional Use Permit. She said staff had to balance the time it would take for staff to look into this, and said a year is reasonable for reviewing the residents. She said the Planning Commission would be able to discuss the conditions amongst themselves. Commissioner Staley asked if it would become a land issue when the facility had a seventh resident. Ms. Racette said (H) is a no direct threat to health, safety and welfare. Mr. Sims said it would not be land use. Chairman Jarchow asked the applicants to come forward. Kristi Iannucci said she provides marketing and community development with Community Counseling Centers. Jaqueline Hawkins said she is the administrator for the facility. Ms. Iannucci said some of the clients served by Community Counseling Center are individuals that have mental illness, and said their mental illness is debilitating enough that they are unsuccessful in living independently and they need additional help with life skills and life coaching. She said this is what the residence would be for. She said the residence would be staffed twenty four hours a day, seven days a week. She said this would not be home for substance abusers, not a halfway house, not for individuals just out of prison. She said these are clients currently struggling on their own to live independently, and said they need extra help to get back on their feet. She said they would not put individuals in the home that are high risk and a danger to others. She said it would not be good for Community Counseling Centers as an organization, and said it would also not be good for the community. She said these are individuals already living in the community, and said they would not be bringing people from outside of Navajo County into the residence. Ms. Hawkins said the goal is to help people in a structured environment, with management and staff on site, to help with their average daily living skills. She said they would help the residents with laundry, cooking and provide counseling. She said these are people from and already living in this community, and said they are people that need to be near their families. Chairman Jarchow asked if the residents would be coming to and from the property during the day, and asked if they would have responsibilities or activities off site. Ms. Hawkins said they might, and said transport would be provided by Community Counseling Centers. Commissioner Staley said it was mentioned not to plan to house persons released from prison or operate a halfway house environment, but he said it sounds like there would be an option to do this by the Code he is reading. He said he is concerned with the disconnect he is seeing of what is allowed and what is planned for, and said he would like clarification on what would be allowed and what is planned for. Ms. Hawkins said the goal is to help people that really need to be helped, and said it is not to operate a halfway house. Ms. Iannucci said the Code states the reason for their disability cannot solely be because they are delinquent or a sex offender, and said they would have to have a form of mental illness that would qualify them for their disability. Commissioner Staley said he was addressing criminal history. Ms. Iannucci said that would not be the type of person at the residence. She said it would not be a detox home or a substance abuse treatment home, and said the focus would be for individuals with mental illness. She said it would be possible that some of the individuals had substance abuse in their past but not actively, and said the home would be drug, alcohol free and smoke free and would have strict house rules. Ms. Hawkins said the goal is transitional housing, and not the goal for the residents to be living there forever. She said the goal is to help them get on their feet and move into independent housing and help people move forward and not have them languishing in their environment. She said it would be to teach the residents skills, get a job and have them move on to independent housing. Commissioner Ingels asked what would be the expected term of the a resident, and said would it be one, three, six or nine months. He said his concern is the annual review process would always be a catchup procedure if it is only at the end of each year new residents are tracked. He said as new residents come in there should be a way for the Town, which is somewhat responsible for the enforcement, and said there should be a better system than only a once a year review of who is coming and going from the residence. Ms. Iannucci said Community Counseling Centers would be happy to provide

certification, but said there would be HIPAA concerns as far as disclosure of names and the medical conditions of the people in the home. She said whatever time frame the Town decides on for certifications, whether it be six months or a year, they would be happy to provide the information. She said names and medical conditions would have to be respected and not be released due to HIPAA laws. Ms. Hawkins said the privacy of the individuals would have to be respected, and said they would have to follow the same laws for individuals with mental disabilities. Commissioner Staley said with respect to HIPAA the Commission understands, but said the Commission also needs to enforce our policing right. Ms. Iannucci said that would be absolutely correct, and said they would not deny and would comply with the reporting. Ms. Racette said staff recommendation says written certification of each and every resident would be required to qualify an individual with a disability. She said the Town would not be looking for names or medical conditions, but would be looking for certification from Community Counseling Centers on the disability of each individual. Chairman Jarchow said in the staff recommendation in the third point it says "Immediate notification of the Town is required in case of probation, suspension or revocation of the state or government license." He asked what would be the basis for probation, suspension or revocation of the state or government license. Ms. Racette said it would be if the state license would be pulled for any reason if the residence was not in compliance. Ms. Hawkins said there would be an annual inspection, and said any violations during the inspection would be a reason for losing the license as well as the care given to the clients. Mr. Sims said this is an example of the Town trying to acknowledge the concerns of the constituents, and the concerns of the neighbors, and to make sure the facility is operated appropriately. He said it would also be acknowledging the fact that policing the requirements is not something Town personnel are trained for or have sufficient Town personnel to conduct the appropriate investigation. He said it would be self-reporting, and said once a year when the Town renews business licenses would be the time for the Town to make a request and ask for Community Counseling Centers to their show licenses. He said this would give the Town the right to pull the Conditional Use Permit if they were not current with their licensing. He said the Town does not have the expertise or the personnel to police the licensing requirements. Chairman Jarchow said in the third item of the staff recommendation it says "Immediate notification", and asked does that mean immediate notification from the applicant. Ms. Racette said yes, and said that would be a phone call from Community Counseling Centers to the Town Manager. Chairman Jarchow said they would have to inform you that they had lost their license. Ms. Racette said that would be correct. Chairman Jarchow asked Mr. Sims in paragraph H it states "A Residential Care Facility shall not include any person who claims to be disabled solely" and said solely means for only one reason. Mr. Sims said that is correct. Chairman Jarchow asked if a person could have multiple bases for disability one of which could be one of the three following items that follow, which are adjudicated juvenile delinquent, having a criminal record, or being a sex offender. Mr. Sims said it is in the Town Code and said Chairman Jarchow was correct, and said if someone had one of those three conditions and they could show an additional condition it would not trigger paragraph H. Vice Chairman Snitzer asked how that would work regarding a licensing standpoint if a person had multiple disabilities but one of them was a sex offender, and said would that trigger a licensing violation. Mr. Sims said he did not know and the applicant would have to answer. Ms. Hawkins said no sex offenders would be allowed at the facility. Vice Chairman Snitzer said it is sounding more and more like everything hinges on the licensing and maintaining the license. He said it would not be a burden to notify the Town immediately if the license was revoked, and said it would not be out of order for the Town to have this requirement. He said most of Community Counseling Centers requirements fall under the state to maintain their license. He asked if a recovering alcoholic that is also a sex offender was chosen would the licensing permit you to do that. Ms. Iannucci said the state does not discriminate against sex offenders in regards to obtaining treatment. She said she realizes this is a concern, and said the organization had taken the policy that they do not want to allow sex offenders in the home. She said a sex

offender would be able to move in to a home next door to you and said you would not be able to prohibit it. She said for safety reasons they do not plan to put sex offenders in the home, but said it would not keep them from being licensed through the state. Ms. Hawkins said there is a reporting required for a sex offenders. Ms. Racette asked Mr. Sims if the Town could add the condition no sex offenders would be able to be housed in the residence. Mr. Sims said adding this as a use restriction would look like a land use restriction, and said he would rather not answer that question publicly. He said right now this could be done through the licensing, and said he is hearing the Commissioners responding to the concerns of the neighbors. He said the issue is to make sure there are no sex offenders in the home, and said the applicant had been working with the Town and understated the concerns of the neighbors. He said State Statutes from the legislature say "the provisions of this section shall not be construed to prevent the City or Town from placing restrictions on homes that serve six or fewer residents and such restrictions would apply to other single family residences." He said the Town could not say to a person living in their home, that had a son living with them that was a sex offender, that the son could not live in the home. He said the applicant had accepted, and said they will not have a sex offender, and said it would risk their license, and could be enforced indirectly. He said it is not a perfect solution for the neighbors, but said the State Statute had to be honored saying they are treated like a single family residence. Chairman Jarchow asked when the license is renewed is there a public process. He asked if the neighbors would be notified. Ms. Racette said no, and said it would be a state inspection. Chairman Jarchow said there would be a process at that time to ask the neighbors how the facility is doing. Ms. Racette said not unless the Town would institute this requirement. Commissioner Smith asked what type of mental illness the patients would have. Ms. Hawkins said they could have schizophrenia, PTSD, depression, anxiety or bi-polar disorder. Commissioners Williams asked what enforcement would be in place to prevent residents from leaving the facility and if they do leave the facility what would be done. Ms. Hawkins said the goal is to stay on top of the clients and make sure the staff stays with them, but said they cannot guarantee someone will not leave facility. Ms. Iannucci said this is not a lock down facility, and said it would be a residential home for these individuals. She said there would be rules for the residents, and said they would check in with staff, there would be guidance and staff oversight. She said the residents would not sneak out, and said the residents are allowed to leave. Commissioner Staley asked if someone were to leave without permission from the facility would there be a protocol in place to notify the authorities. Ms. Iannucci said yes. Commissioner Staley asked if this notification would take place within Community Counseling Centers or within the community. Ms. Hawkins said within Community Counseling Centers and the community. Ms. Iannucci said it would probably depend on the situation and if staff feels there is imminent present danger they would contact law enforcement. She said if it was a defiance situation they do have staff that would be involved. Chairman Jarchow said he went by the property, and said there is a one story building on the front of the property and a two story building on the back of the property. He said it appears that you will have, at most, three employees on location at each shift, and said they would be responsible for keeping track of ten people in two different buildings. Ms. Hawkins said staff would adjust according to the number of residents in the home. Chairman Jarchow asked if they had ten residents how many staff would they anticipate. Ms. Hawkins said it would be four at a time depending on the shift. Chairman Jarchow said it appears the back portion of the property is completely fenced in. Ms. Hawkins said yes. Commissioner Ingels said he was surprised there was not a site plan included in the agenda and packet information. He said the horse shoe driveway and the way the property is fenced it does supply onsite security and property containment. He asked if the residents would have their own vehicles. Ms. Iannucci said it would be unlikely, but said it would not be ruled out as a possibility. She said there is adequate parking available, and said there would not be cars parked on the street. Commissioner Ingels said he is concerned with outdoor lighting, and said the Conditional Use Permits states it is not applicable. He said lights going on and off can be perceived as a nuisance and the brilliance of

the lights, and said there is Code for this and should be in compliance. He said all elements of our Zoning Code which would apply to the residential district would need to be adhered to. He said he was under the understanding the facility would be limited to six residents until he heard tonight there could possibly be more with addition to two to three staff members, and said there could be the possibility of eight people coming and going. He said now he is aware there possible could be ten residents plus three staff members, and said this would put a lot of activity in a residential area. He said there is only one ingress and egress onto the street.

Commissioner Heslop asked why this is a Residential Care Facility versus a home health care facility, and asked what is the Arizona license. Ms. Hawkins said the license is under the Arizona Behavior Health Services. Commissioner Heslop asked in an eight hour day how much time is spent in counseling with each patient. Ms. Iannucci said in the household the majority of time spent with the residents would be handling daily living, cooking, learning about nutrition, and said a small percentage of the time would be spent with clinical staff to the facility and meet with the residents on site. She said most of the time the residents would be transported to Community Counseling Centers outpatient facilities for clinical sessions. She said a small percentage of the time counseling would be done in the home. Ms. Hawkins said there would be times when residents go to the Community Counseling outpatient facilities for clinical sessions, but said in the house they would be learning average daily living skills. She said it would also depend on the client as well. Chairman Jarchow said the public would be called to speak, and he asked them to state their name and address.

Ms. Jo Slade said she and her husband live at 476 S. Woodland Lane, and said they live directly across the street from the proposed facility. She said she is speaking on the behalf of six widows that live in the surrounding homes. She said she and her husband are the only couple in the neighborhood, and said she is speaking on behalf of the ladies because they are quiet, genteel, good natured women who contributed to this community for their lifetime. She said because they are genteel they are very quiet and they do not speak up, which makes them very vulnerable. She said her question to Ms. Racette is, criteria used to show this is appropriate for this community, she would like to know what the criteria would be. She said the statues saying you have to treat them like another resident, but you have additional information. She said when there are six widows and a house full of mentally impaired men; you are knowingly setting up a dangerous situation. Chairman Jarchow asked if there would men or men and women in the home. Ms. Slade said it is supposed to be men and women, but said they have asked numerous questions of Community Counseling Centers, and right now the residents would be men. She said there is a street in the immediate area of the home where there are widowed women living and said this is setting up for a dangerous situation. She said the worry is the Statute, and said the Town also needs to worry about setting up this dangerous situation when something does happen. She said can you address the criteria used to make this appropriate. Ms. Racette said the Code had been used for evaluation. Ms. Slade said in paragraph H it states a direct threat to the health to the health or safety of the neighbors or other persons, and said when it is known what the situation is it would be part of the criteria. Ms. Racette said the Town is unable to discriminate under the Fair Housing law.

Bill Slade said he lives at 476 S. Woodland Lane, and said he is Jo Slades' husband. He said he spoke with the Town Manager, and asked her and was told this meeting was basically a formality. He said Ms. Racette told him it would not matter if he had a hundred percent of everyone in the neighborhood against it, it would not matter. He said she is looking strictly at the rules required by the state. He said Jeff Oakes, Chief Executive Officer at Community Counseling Centers, is looking at this as a business decision, and said Mr. Oakes degree

is in business. He said Mr. Oakes is looking at this as a business venture only, and said he is not looking at this as a residence. He said before the Planning and Zoning Commissions approves this Conditional Use Permit he would like this decision to go before the Town Council for their approval. He said this is a business decision for the Town. He said the residents around the home are elderly widows. He said he had owned his home since 2000. He said the Town Manager had said the Code was published in 1988, and he said a lot of the residents had lived there longer and prior to 1988. He said he and his wife did not know about this Code. He said he retired one year ago, and said he spent \$500,000.00 renovating his home. He said he spent money on his home because he knew the neighborhood he and his wife wanted to live in, and he said now he finds out Town management is saying it is a "State Ordinance and we do not care about our residents, we do not care about the people live in the neighborhood, all we care about is we do not get sued by Mr. Oakes the CEO of Community Counseling Centers." He said it is a business, and said this business is inappropriate for this area. He said Community Counseling Centers sent out somebody to find an area to buy a house and they chose this house in our neighborhood. He said he has a nephew that worked for Mr. Oakes previously, and said his nephew is now a doctor in Flagstaff working with the same type of individuals that will be in the home. He said he asked his nephew the type of people that would be in the home, and asked his nephew how the facility would be run. He said his nephew said "you will have the police out there on a regular basis, and said you are taking people that have issues and putting them all under the same roof and asking them to get along with each other and there will be issues". He said his nephew also said "you will have officers on a daily and weekly basis, and said the staff that would be in the home on a twenty-four and seven basis are high school graduates with no degrees, no experience and with no prior training." He said the Town is at risk, and said the road getting in and out will see a high volume of use. He said he would like to ask Ms. Hawkins and Ms. Iannucci what was going on at the residence on December 21, 2015, and said his reason for asking is because there were twenty-one cars parked at the facility that day. He said they have said they will have four cars parked in front of the residence and three cars parked in the back. Ms. Hawkins said there was a business meeting and Christmas get together held at the facility on December 21, 2015. Mr. Slade said this was held at a facility that was not authorized for business at that time. Ms. Racette called for a point of order, and said Community Counseling Centers own the property and did have a business license at that time. She said they were not operating out of the home at the time, and said technically they were having a Christmas luncheon meeting and said it was legal at the time. Chairman Jarchow said he would like to clarify a couple of issues. He said Mr. Slade wants this item to go before Mayor and Town Council, and said is it correct the procedure would be the action taken by the Planning and Zoning Committee can be appealed to the Mayor and Town Council. Ms. Racette said Mr. Sims has the appeal process. Mr. Sims said Conditional Use Permits can be appealed to the Board of Adjustment, and said "any person aggrieved by the decision of the Planning and Zoning Commission to approve or disapprove an issue may file an application for appeal with the Board of Adjustment." Mr. Sims said operating a business without a business license is not a land use matter and can be enforced. He said just because the Zoning Code and the state legislature said there can be this permitted use does not mean that illegal acts can be done. He said because a land use is permitted does not mean other sections of the Code can be violated. He said the appeal would be to the Board of Adjustment. Chairman Jarchow said at this time the Board of Adjustment is the Mayor and Town Council. Ms. Racette said currently it is, and said it would be discussed at an upcoming council meeting. Chairman Jarchow said any decision tonight if appealed would go in front of the Town Council. Mr. Slade said the road is a one way loop and said the road was paved by the Town in the early 1990's with two inches of blacktop over the road for a low use road. He said now with the business going in there would be parking for three in the back and four in front, but said they had heard tonight every resident could have a car. He said there could be up to thirteen to fourteen vehicles, and said that is a lot of traffic and the road is not designed for that volume of traffic.

Chairman Jarchow asked Ms. Hawkins and Ms. Iannucci to respond to the questions regarding the qualifications of the staff at the facility. Ms. Hawkins said the state requires certain levels of degrees, and said the Administrator would have a Behavioral Health Professional master's degree, the group home manager would have master's degree, and said she has a master's degree and is a licensed counselor. She said there would be staff members that have bachelor's degrees and some that have high school diplomas, but said they would also have experience. She said there is nothing wrong with someone having only a high school diploma to handle this job. She said it would be about the level of experience, level of compassion and the ability to do the job. She said it is a state requirement and a Community Counseling Centers requirement to have master degree for individuals to oversee the facility. She said the group home manager would have a master's degree. She said the state licensing board would view the human resource personnel records.

Michele Long said she lives at 382 Oak Meadow Lane. She said she is opposed to the facility. She asked if there would be licensed staff on site twenty four hours a day for seven days or week or just during business hours. She said that is a concern, and said she had experience working with a valley fire department for sixteen years. She said most individuals in behavior health facilities are unable to have the success within their homes. She said individuals with bi-polar, PTSD and schizophrenia are least likely to stay on their medications and to stay in a controlled environment. She said a lot of the times they stop taking their medications and begin using illegal drugs and bring the illegal drugs in to the facility and the community. She said she is concerned for her own safety and the safety of the neighbors. She said there would be police, EMS and the fire department involved on a regular basis, and said this would be a strain on the entire community on several levels. She said there would be police officers, EMS and the fire department used to deal with situation taking them away from helping others in the community.

Vice Chairman Snitzer asked when their licensing comes up for renewal would the State law allow for public input. Mr. Sims said many State agencies have to have hearings when issuing licenses. He said for example when the State asks the Town Council for any issues when issuing a liquor license. He asked the applicant for license obtained by Community Counseling Centers. Ms. Iannucci said the licensing is through the Arizona Department of Health Services. She said there would be an application process, an inspection process and an approval process. She said a formal Public Hearing is usually not done. She said the public can contact the state with concerns or complaints regarding the facility, and said she does not know how the state would handle the complaints from the public. Mr. Sims stated the Public Hearing is allowed because of the Conditional Use Permit process, not due to any of the State or Town licenses required. He said his job as the Town Attorney, and the job of Town staff, is to address and advise the concerns of the public on public health and safety. Vice Chairman Snitzer asked if there were a lot of cars parked on the property and on the street in front of the property, beyond what is allowed by their business license, would that be cause to pull the business license. Mr. Sims said normally when a property owner builds the property and before a certificate of occupancy is issued, and the zoning, building and electoral codes are checked for compliance. He said once a year when business licenses are renewed it is the time to check and make sure all codes are compliant. He said if the Town were to revoke the business license because of a parking problem not also imposed on single family residences there would be a problem. Vice Chairman Snitzer said they have to meet state licensing requirements and also maintain a Town business license. Mr. Sims said the business license can be enforced, but said it cannot be forced based on land use. He said they must continue to pay sales tax to maintain the business license. Vice Chairman Snitzer said his main focus is on having them meet their State licensing requirements to maintain the Conditional Use Permit. He said he and Town staff did not have the time or the

experience to police up all the Department of Health license requirements, and said they are imposing on the applicant an immediate reporting requirement in the event of revocation and allowing the Town to cancel the Conditional Use Permit. Chairman Jarchow said Chapter 17.08 General Provisions of the Town Code under purpose says “these regulations are designed to protect public health, safety, morals and the general welfare of the citizens of the Town by guiding and regulating the future growth and development in the Town by protecting the character and stability of residential and commercial and other areas within the Town .” He said he understands the Attorney, said it would not be a land use issue, but said is there authority by that purpose to look at character and stability of residential areas within the Town. Mr. Sims said Title 17 is Zoning Code, and said if those requirements could be found in other elements of the Town Code, for example morals and healthcare, and public health and safety, but said Title 17 would have to be enforced on all single residents. He said he would look at the business license to see the amount of control in the business license.

Ms. Long said for the future the Town should set up standards that are best for the community and the safety of the community. She said statistics as of January 2015 for Prescott, Arizona with a population of forty thousand people there are one hundred and fifty-three group homes and treatment programs. She said according to police property crime is on the rise and property values are down. Mr. Sims said the Town business license is good, and the license says “no person shall conduct business within the Town that is prohibited by law, prohibited by the zoning regulations, by applicable fire code or other applicable codes or regulations. No business shall use any location within a public or private street or where its operations might impede traffic or otherwise inconvenience the public.” He said this does give us the ability to address some of the concerns outside of land use. He said whatever is done with this facility would have to be applied across the street. He said he would have the facility meet state requirements and have the facility inform the Town if there is a problem.

Jerry Smith said he lives at 537 E. Oak Meadow. He said in paragraph C in section 17.104.160 distinguishes between Residential Care Facilities and Healthcare Facilities, and he said a healthcare facility as defined in 17.104.160 is a facility licensed by the State of Arizona Department of Health Services. He said it may be allowed in C1 and C2 zoning districts only. He asked if this was a healthcare facility or a Residential Care Facility. He said the Planning and Zoning Commission should make this their first criteria to decide what the facility would be. He said in his opinion it is a healthcare facility by the definition in 17.104.160. He said if it is a Residential Care Facility he would want paragraph H in 17.104.160 enforced. He said the Conditional Use Permit should have additional questions in section O which would answer questions on renewal and on the original application questions regarding the residents, whether they had or have a criminal record, if there is current use or past use of illegal drugs, had been convicted of the manufacture or sale of illegal drugs and is a person with or without disabilities who presents a direct threat to any person or to the property of others. He said if they had any of these in the past it would be a reason to reconsider the renewal. He said he would like the healthcare facility versus the Residential Care Facility to be a consideration.

Commissioner Staley said Community Counseling Centers had said that it was a minority of their services to provide healthcare type services, and said the definition in 17.104.160 paragraph C says “fifty (50%) percent or more of its income, or expends fifty (50%) percent or more of its staff time providing medical services, counseling, or other health care services by persons or at facilities required to be licensed as a healthcare facility.” He said their application indicates a Residential Care Facility, and said he does not see where it would be a healthcare facility. Mr. Smith said he would agree if the word “or” was not in the statement. Mr. Sims it

is in the current Code. He said he and staff were charged with addressing the communities concerns about an applicant with licensing issues that we could not police up by the Zoning Code and came up with a reasonable solution. He said it is being pointed out there are elements in the Code making it difficult to make it work. Chairman Jarchow said there are three conditions and said the third condition says the licensing required makes it a healthcare facility, and said a healthcare facility can only be in C1 and C2 this cannot be approved. He said there are three conditions here and one condition is not be met. Mr. Sims said that would mean there is no need for the definition of a Residential Care Facility and they all should be called healthcare facilities, and said that cannot be what was meant with this code. He said he does agree it is an argument, and said he would agree with Chairman Jarchow. Chairman Jarchow said it would be a lower level of care for the Residential Care Facility that would not require licensing. Commissioner Williams asked Mr. Sims “deriving fifty percent or more of its income” providing for the mental stability of the patients if that would be considered treatment or a housing allowance from the government. He said he had no idea who wrote section 17.104.160. He said it was the existing Code and would have to be looked at to see what it means. Vice Chairman Snitzer said all the other concerns, for example criminal history, are met by their licensing requirements. Mr. Sims said he is trying to make sense out of paragraph C, and said six patients or fewer have to be treated under single family residences not C1 or C2 zoning districts only. Commissioner Williams said they proposed up to ten residents, and said that would not be six or fewer. Mr. Sims said if there are more than six patients C1 or C2 zoning district would be enforced.

Lorenzo Santana said he lives at 391 Linda Lane, and said his house is three houses down from the proposed facility. He said he received a post card in the mail regarding the facility. He said most of his concerns had been addressed, and said he would bring up some additional concerns. He said he and his family moved to the neighborhood a couple of months ago, and said he was not informed about the facility. He said had they known they would not have bought the home. He said it is a very nice and beautiful neighborhood, and said he chose the neighborhood because it is a very safe and nice area. He said he has a wife and five children, all less than twelve years old, and said one of the reasons they chose the neighborhood was because it was a safe neighborhood to walk in and for the kids to ride their bikes through. He said he has not had the chance to read through all of the Codes and Ordinances, but said he is very concerned about the facility. He asked how residents in the neighborhood could be guaranteed they would be safe and if the kids would be safe when riding their bikes and walking around the neighborhood. He asked if the facility has ten patients and only four staff how could there be a guarantee they would not walk out the front door or jump the back fence. He asked what the security measure would be at the facility, and asked what the protocol would be for leaving the facility. He asked if the residents would be allowed to walk around alone in the neighborhood and what would happen when infractions do occur. He said it is not a matter of if violations would occur it is just a matter of when they would occur. He said this would be a bad location for this type of facility, and said there would be better locations in Town. He suggested commercially zoned areas, would be more appropriate for the facility. He said it would be a poor decision to move forward with this facility, and said it would be negligent of the Committee and the Town to allow this to move forward. He asked if a different location could be pursued. He said his kids are homeschooled, and said his wife and kids are home all day. He said he sincerely asks that a different location is pursued.

Ms. Racette said she knows a number of the public were at another public meeting and she was asked if she would like the residence in her backyard. She said she said yes, and said she understands this is a sensitive matter to them as residents. She said the reason she said yes to the questions is the community needs to have empathy for these people that are in our community needing this help. She said she recognizes this is a

struggle, but said we have to rise together as a community. She said it takes a village to raise a child, and said it takes a community to help these community members. She said personally she is okay with the facility and said she recognizes not everyone is okay. She said she had empathy for how this will affect the neighbors, but said tonight her recommendation was based on Code, which she said is a hard and messy code to enforce. She said the Code is analytically what is reviewed, and said the emotion is taken out of the decision. She said she recognizes it is very hard for the residents.

Ed Collins said he lives at 390 Linda Lane. He said he lives four doors down from the residence, and said the applicant never once made an attempt to discuss the situation with him. He said there are organizations that lead by regulation, and said there are other organizations lead by relationship. He said this organization has lead by regulation, and said the organization said "I can do it, so I am going to do it." He said for this community it would be a source of continuous conflict, and said it would not go away because of the way it is being forced on the neighborhood. He said he has lived in his house for over twenty-six years, and said he bought in the neighborhood because it is a residential community not because it is a mixed use location. He said this is a business, and said it is a commercial enterprise. He said commercial enterprises should not go into a residential community. He said governments at all levels are failing the residents on this particular situation. He said he would never be able to go out into his yard and in the community without having a more heightened sense of security, and said it is changing the entire way he and his family would look at the neighborhood. He said government is letting the residents down, and said this applicant started the entire process knowing they could force it down our throats. He said it is a huge resentment.

Commissioner Staley said his understanding is the property was purchased in July of 2015 in advance of any application to the Town. Ms. Racette said this was correct.

Scott Kinghorn said he lives at 566 E. Osprey Lane. He said tonight after the meeting people will return to their homes and neighborhoods, and said they are stuck with this facility. He said he has a facility like this on his street in Mesa, Arizona, and said there are a lot of police cars and constant activity at the home. He said the residents do not have anything to do during the day, and said they are allowed to leave whenever they want. He said they would be walking around the neighborhood. He said he is concerned there would be four staff and ten residents, four vehicles parked in front of the home and other vehicles parked in the back behind a gate, and said that is the backyard of the home. He said how many cars can be parked in the back yard, and said the back yard faces his back yard and deck. He said he lives with this in the Valley and he knows what it would be, and said at times there would only be one staff person on site. He said this is a money making machine. He said property values would take a big hit. He said he hopes there is help with paragraph C.

Betsy Barret said she lives at 1942 S. Woodland Lane. She said she has lived in her home for thirty years, and said she would be experiencing traffic going in and out. She said traffic is already extremely heavy, and said with adding the facility it would be much worse. She said the road is full of pot holes. She said she is asking the Commission to think about safety, safety, safety. She said the public emotion is due to safety, and said her biggest concern is the medications the residents would be on. She said when the residents go off their medications for twenty four to thirty six hours what kind of behavior would be expected. She said the community should be educated, knowledgeable and aware of what could happen when the residents are off their medications. She said it is a safety issue. She said there is no proven track record with Community Counseling Centers on doing a project like this, and said they have not done it before so this is experimental. She said they come in with rules, regulations and expectations and said it is her opinion that those can fail.

She said they have tried a home in this Town before, and said it failed and closed because of problems and thefts. She said it is back to safety, safety, safety, and said for the Commission to find a way through safety to stop this.

Ms. Innaucci said this is the first Residential Care Facility that would be staffed twenty four hours seven days a week, and said they do currently have housing in Holbrook, Lakeside and Show Low areas that are semi supervised and part-time staff. She said it is not their first experience with having residents and clients in a residential setting, but said this would be their first group home in the community that would be staffed twenty four hours and seven days a week. She said previously there was a facility in the area for juveniles. She said the reason the facility is no longer around is because there was not enough need to keep the house full and the funding levels were not sufficient enough to operate the facility. Chairman Jarchow asked the staffing that is not twenty four hours seven days a week in other areas, if it is the same level of care required by those residents as would be required by the residents in the facility. Ms. Innaucci said no, and said this would be a higher level of care needed and said ultimately these residents would be able to transition to a lesser level of care. Commissioner Staley asked if Community Counseling Centers could say how they determine a Residential Care Facility is not a healthcare facility. Ms. Innaucci said in Community Counseling Centers terms it is not, and said the clinical services would primarily happen in their clinical out-patient clinics and not in the home. She said in the home the focus of the care is cooking, budgeting, nutrition and life skills, and said is not a health care or medical service. Commissioner Staley said this Residential Care Facility is not a health care facility. Ms. Innaucci said correct. Chairman Jarchow asked if the facility would require a license or certification from a governmental agency to operate. Ms. Innaucci said yes.

Steven Preshaw said he lives at 1942 S. Woodland Lane. He said he attended the first meeting at Community Counsel Centers, and said tonight is the first time he has heard of a maximum of ten residents. He said at the first meeting the information given was for four to six residents, and said ten residents was not mentioned. He said his biggest concern is safety. He said they were told at the meeting most if not all of the people would be on medication, and said they would be monitored. He said they walk the neighborhood with their dogs. He asked what would happen if someone went off their medication and went driving and ran someone over. He said it is all about safety, safety, safety. He said he understands it is not about land use because they have the rights under the regulations to do this, but said the government is supposed to work for the majority of the people and right now there is a majority of the neighborhood that do not want this. He said the Town is to work on behalf of the majority and keep the public safe. He asked if they could not guarantee to keep the residents on their medication where does that leave safety. He said the mass shootings in the country had been people on medication for mental health issues. Chairman Jarchow asked Mr. Preshaw when the meeting was held at Community Counseling Centers. Mr. Preshaw said the meeting was held in October or November or 2015. He said flyers were sent to the neighborhood informing the meeting would be held at Community Counseling Centers. He said the flyers and the meeting happened after the house had been purchased. He said housing values would go down.

Roger Toronto said he lives at 1955 S. Woodland Lane. He said he has been in his home since 1991. He said he was informed about the meeting at Community Counseling Centers by members of the community, not by Community Counseling Centers. He said it was not Community Counseling Centers doing outreach, and said it was members of the community that organized the neighbors and the meeting. He said the Community Counseling Centers staff was surprised and over whelmed by the amount of people at the meeting. He said a neighbor made and distributed the flyers and organized the meeting with Community Counseling Centers. He

said at the meeting they said they had complied with the law and had advised neighbors on either side of the home and in front of the home, and said that was the extent of their outreach. He said he was blindsided by this home and said he continues to feel frustrated. He said Community Counseling Centers is driving the process because they have the rules, regulations and the law on their side. He said it is a business decision and said they want a contract to give services to the government. He said the government has failed the neighbors. He said the Town Manager said we need to feel empathy and be a village, and said this makes him mad because these people had been receiving services from the citizens of this community and the state. He said they had not been in a home, but said they had been receiving funding, care and treatment from the local government and the state government. Commissioner Heslop asked Mr. Toronto what is his occupation. Mr. Toronto said he is a retired FBI agent.

Cheri Moreno said she lives at 443 E. Evans Drive. She said Mr. Smith and the Homeowners Association made the residents aware of the home. She said the neighborhood is safe, beautiful and a family oriented community. She said there are a lot of kids in the neighborhood, and said this Halloween they passed out candy for three and a half hours to four hundred and seventy kids. She said the kids deserve to have a safe place to run, play and ride their bikes. She said it is a safety issue and the safety of our kids and women in the neighborhood. She said it is not a fulltime neighborhood and some of the homes are left vacant. She asked what medications are the residents on and who controls and distributes the medications. She said it is a healthcare facility when staff distributes medications to a patient and watches the patient take and swallow the medication.

Ms. Innaucci said the staff would be responsible for making sure the residents in the home take their medication. She said this would take a small amount of staff time, and said staff would oversee the medication and make sure the residents take their medication. She said this should reassure the neighborhood that the residents are taking and staying on their medication. She said studies show that individuals with mental illness are a threat to society if they do not stay on their medication. She said this is why a facility is needed to ensure members of our community that are already in our community, have access to our parks, stores and neighborhoods and are being taken care of properly. Chairman Jarchow said the people dispensing the drugs are licensed or certified. Ms. Innaucci said yes.

Dylan Baca said he lives at 433 S. Woodland Lane. He said neighbors use our neighborhood to retire or to build a family. He said the residents he had talked to oppose the facility because they are elderly and they do not want their property values to go down. He said the family that lives across the street from the facility just built their dream home, and said he can see why they are disappointed. He said his family lives within three hundred feet of the facility, and said he has a younger brother that he sometime watches. He said, for example, we walk in the neighborhood and said he does not want to fear for his safety or my safety. He said he does not only worry about his family, but said he worries about his neighbors. He said this is an invasion of their neighbor's security and said he is concerned. He said he loves his neighborhood and the people who live there.

Dawnafe Whitesinger said she lives at 433 S. Woodland Lane, and said Dylan Baca is her son. She said she supports individuals having the resources to help and improve their lives. She said she does not support the facility being in her neighborhood. She said she moved to the neighborhood ten years ago, and said it is the first home she and her husband purchased. She said they purchased the home to start and raise their family, and said everything they own and have invested is in their home. She said it is hard not to get emotional, and

said she can understand how the community feels. She said it is not that she does not support individuals being well, but said she does not want to worry about children in the streets, children riding their bikes on the loop, walking the loop, and said there is a sense of safety and security. She said she understands the position that the Town is in, and said there are laws that need to be adhered to. She said sometimes it is very difficult to supersede the laws, and said maybe there is not the ability to. She asked how the conversation could be started by talking to our state legislators, talking to those who created the laws, to support the residential areas in our community. She said how we work together as governing bodies to begin to create the conversation and develop a better picture of what this looks like for our communities. She said she does not want to prohibit individuals from receiving services they need, but said she does not want to change the way her neighborhood feels, and the safety they feel, and the concern they have for the children. She said you can see my son is concerned, and said he had been concerned for quite some time.

Bob Moreno said he lives at 443 East Meadow Lane. He said the big concern is safety, and said what are the guarantees because he does not believe there are any. He said the Code says a Residential Care Facility shall not include any person whose occupancy would constitute a direct threat to health or safety of its neighbors. He said there would be young people staffing the home, and said how have they been trained to handle these individuals. He asked what guarantee does he have that when he walks out his door that he and his neighbors would be safe. He said he does not own a gun, but said he feels he and his wife will now have to go and purchase a gun. He said there is no guarantee these individuals would not act in some manner that would be aggressive. He said there are part-time residences that are empty during the winter, and said safety is a big part of this issue. He said there needs to be some sort of guarantee that people and their residences would be protected.

Mr. Slade said the facility receives thirty percent of each resident's social security check. He said the remainder of their income comes from the distribution of the resident's medication, Medicare and Medicaid. He said three days after Community Counseling Centers purchased the house in July 2015, three women from Community Counseling Centers, including Ms. Innaucci and Ms. Hawkins, did come across the street to his house. He said he and his wife are now fulltime residents, and said they tried to explain to him what type of facility it would be. He said they were using words like "our policy is", "we anticipate", and said there was not anything in writing. He said he was asking questions and drilling them for answers and said at the end of conversation they were calling him "drill Bill". He said he felt as though he was talking to a politician, and said he could not get a straight answer from them. He said he would like to know the type of facility it would be, and said he had still not received clarification on the type of people that would be in the facility. He said there are safety issues the neighborhood is worried about, and said he is begging and asking the Commission to make a decision on what they would want in their neighborhood. He said there had not been a single person in the room who had said "I am for this facility".

Ms. Hawkins said the state requires having a number of hours of training, and said this includes medication management and dealing with escalations. She said the state requires a minimum of thirty hours of training.

Chairman Jarchow said the Commission has heard the staff report and from a number of citizens, and said, to the Commission is in a position to take action. Commissioner Staley said regarding section C Health Care Facilities, he said he is of the opinion there are two conditions; he said one is a Health Care Facility "derives fifty (50) percent or more of its income, "or" expends fifty (50) percent or more of its staff time providing medical services, counseling, or other health care services by persons or at facilities," and said his opinion is

fifty percent or more of staff time and fifty percent more of income is the qualifier to become a Health Care Facility, based upon the Town Zoning Code. He said he would like the Town Council to render an opinion subject to actual legal consequence. He said it would not be a health care facility by what Community Counseling Centers had claimed. Commissioner Staley said he is not advocating one side or the other, and said he is just stating a legal opinion. Commissioner Staley asked for Mr. Sims opinion, and asked is the facility a Residential Care Facility or a healthcare facility. Commissioner Staley said if it is determined to be a health care facility it would have to be in C-1 or C-2 zoning districts only per the Town Code. Mr. Sims said if it was not preempted by state law that it would be yes. Mr. Sims said there is not an E session on the agenda, and said he and staff tried to figure out a way to recommend to the Commission Code that would put restrictions on this facility. He said he understands the concern of the neighbors, and said he would need to advise the Commission, but not in an open session. Commissioner Staley said there would be consequences if this does not pass. Commissioner Williams said in section 17.104.160 B. "Definition: A "Residential Care Facility" is an establishment or business that serves six (6) of few persons" and "no more than eight (8) persons live at the facility." He said if there are up to ten residents and four staff that would be fourteen people in the residence. He said (B) Definition and (G) Occupancy contradict each other. Commissioner Staley said section (B) would expand section (G), and said it would not necessarily contradict. Commissioner Williams said he is having a hard time understanding and making a decision based on what is in front of the Commission. Ms. Racette said there is a FAQ Sheet on Fair Housing Laws on alcohol and drug treatment facilities, and said it would be a little bit different, and said it lists the consequences for local government that do not follow fair housing laws in zoning and land use. Commissioner Ingels said he is uncomfortable with the contradictive resident amounts between sections (B) and (G), and said a total of eight residents or fourteen residents as heard tonight is a big difference. He said past discussion had not been very clear on the number of residents and staff. He said he is trying to determine if it is a healthcare facility or a Residential Care Facility, and said the Conditional Use Permit application is filled out specifically as a Residential Care Facility. He said much of the discussion by the Commission evolves around putting the responsibility into a healthcare facility, and said it needs to be determined the Conditional Use Permit is complied with. He said the consequences would have to be handled by Town staff and said the complaint process is not very clear. Vice Chairman Snitzer said in regards to the six residents versus ten residents, the Town zoning said six people and said the zoning the Town has is trumped by Federal and State laws. Mr. Sims said he did not go through the old language in the Town Code and said he only looked at the new language to make sure the goal was accomplished of restricting the facility to six or fewer residents. He said he must admit the Town Code is replete with inconsistencies, and said he would be happy to work through them. He said if the question is does the Town Code acknowledge federal law trumps Town Code, the answer would be yes. He said he does not understand the difference in the resident numbers, and said he was not asked to review the resident numbers and why there might be an inconsistency. Chairman Jarchow said as long as we are in the Public Hearing could we ask questions of other people in the room, and said the minute the Public Hearing is adjourned then we do not have that ability. Mr. Sims said this is a public meeting and call to the public is allowed in a public meeting, and said if the Commission wants to stop having discussions with public then the Commission can vote to close the Public Hearing or the Commission can continue with the Public Hearing. He said if you wish to continue the dialogue then keep the Public Hearing in session. Chairman Jarchow said his sticking point is the residents in the facility require a licensed professional staff member to be on site at all times, and said it appears to him to be a higher level of service than is required under residential care. Mr. Sims said he does not know, and said he did not look at that and said he was only trying to work out a way to restrict to six residents or less. He said he cannot explain the existing Town Code. Vice Chairman Snitzer said the Commission should wait until this is clarified, whether it is a Residential Care Facility or a healthcare facility, before the Commission takes action. Mr. Sims said if

Community Counseling Centers has six or few residents, regardless of Town Code, he said it would be trumped by State law and would have to be treated as a single family residence. He said it would not matter if it was a healthcare facility or a Residential Care Facility if there are six or fewer residents. He said the applicant had said it would be six or fewer residents. Commissioner Williams said the applicant had said up to ten residents. Mr. Sims said if it is ten residents there would be more control. Commissioner Williams said item (G) Occupancy said "maximum occupancy of any Residential Care Facility in any residential zoning district shall be ten (10) residents." Chairman Jarchow said the applicant did not list a number of residents on the application. Mr. Sims said if the applicant has ten residents there would be more control, and said state law would not trump. He said he thought there would be a maximum of six residents on the home. Vice Chairman Snitzer asked if it could be a condition of the Conditional Use Permit that the occupancy be limited to six or fewer residents. Mr. Sims said yes, and said if there are more than six residents they would not be allowed in this zoning district. Chairman Jarchow said the Commission could either grant the Conditional Use Permit for six or less, or said the Commission does not grant a Conditional Use Permit for six or less. Mr. Sims said he is confused and did not know Community Counseling Centers was asking for a ten resident facility in a residential district. Ms. Iannucci said they are asking for up to ten residents, and said the Arizona State License says for up to ten residents. She said the Arizona State Statute says in ARS 36.582 paragraph F "no Conditional Use Permit zoning variance or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required by a single family residence in the same zone." She said it also states in paragraph J "other residential facilities that serve seven or more persons shall be permitted use in any zone which residential buildings of similar size containing rooms or apartments which are provided on a continuous basis for compensation for residential area use." She said her understating and Community Counseling's understanding is for six or fewer residents there cannot be any restrictions imposed and has to be treated as a single family residence, and said for seven or more there can be Conditional Use Permit restrictions on the facility. She said the Conditional Use Permit cannot be more restrictive. Mr. Sims said he agrees with her statements, but said he thought they were asking for six residents not for more than six. Ms. Iannucci said she thought it was clear there were asking for more than six. Ms. Racette said for clarification how many residents are you asking for. Ms. Iannucci said the facility is licensed for up to ten residents, and said this is based on the square footage of the home. Commissioner Ingels said he is confused regarding the seven or more residents and residential zoning. He said he does not think single family zoning and being able to rent rooms out on a continuing basis is good in this community. (Discussion ensued regarding six or less and six or more residents in the zoning district. Recording not clear due to several people talking all at the same time.) Chairman Jarchow said if there are six or less residents there is no Conditional Use Permit approval needed, and said the Conditional Use Permit would be for seven to ten residents. Vice Chairman Snitzer suggested the Commission give Mr. Sims time to review and give a solid answer. Mr. Sims said in 17.104.160 paragraph (J) Licensing you can be more restrictive, but said he had been operating under paragraph (C) Health Care Facilities. He said he thought it was always six or fewer residents. He said (J) does allow government to impose more restrictions than (C). Ms. Racette asked Mr. Sims if he is referring to state statute. He said yes, and said if they are more than six residents than it allows the Town to impose additional restrictions. Vice Chairman Snitzer said if they are asking for seven to ten residents does the Town have the ability to restrict to a C1 or a C2 zoning district. Mr. Sims said no, and said he apologizes again because he thought they were only asking for six residents. Chairman Jarchow said in (G) occupancy number 2 "C1 or C2 apply if there are eleven or more residents or if it is a healthcare facility." Chairman Jarchow said he needs clarification on whether this is a Residential Care Facility or a healthcare facility, and said he needs this clarified before he can vote affirmatively on this. Mr. Sims said he did not realize it would be for more than six, and said his understanding was for six or fewer. He said if there are more than six residents it would be a different set of issues. Vice

Chairman Snitzer suggested again the Commission and Mr. Sims be given more time to sort this out and review again at the next Planning and Zoning meeting. Chairman Jarchow asked for Mr. Sims opinion, and asked if it would still be a public meeting if postponed. Mr. Sims said he had been operating under the assumption that it would be six or fewer residents. He said he knows there had been concern amongst the neighbors. He said under (J) Licensing the Town government would be able to impose additional requirements, and said the applicant acknowledges this. He said he apologies to the applicant and said he and the Town were under the impression that it was for six or fewer residents. He said he and Ms. Racette and the applicant would meet and work through the questions regarding the number of residents in the facility and whether it would be a healthcare facility or a Residential Care Facility. He said it could be put on the agenda for the January 28, 2016 meeting.

COMMISSIONER WILLIAMS MADE A MOTION TO ADJOURN THE PUBLIC HEARING. VICE CHAIRMAN SNITZER SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

VICE CHAIRMAN SNITZER MADE A MOTION TO TABLE ACTION ON THE CONDITIONAL USE PERMIT UNTIL THE JANUARY 28, 2016 PLANNING AND ZONING COMMISSION MEETING. COMMISSIONER INGELS SECONDED THE MOTION AND IT CARRIED UNANIMOUSLY.

Commissioner Heslop asked what protection and rights do the concerned neighbors have. Chairman Jarchow said the neighbors would have the same right as the applicant, and said if they do not agree with the decision of the Planning and Zoning Commission they would appeal within ten days the decision to the Board of Adjustment, which are the Mayor and Council.

ITEM NO. 6, INFORMATION /DISCUSSION/LEGAL ACTION RE: SIGN CODE REGULATIONS:

Ms. Racette said the item is before the Commission tonight because of Supreme Court ruling due to the Town of Gilbert sign regulations being deemed unconstitutional. She said this case pertains to the Good News Community Church who held church services in school facilities in Gilbert and was cited for a sign code violation after erecting temporary signs advertising their services and then filed a complaint in the District Court. She said the Supreme Court said a government, including a municipal government vested with state authority, "has no power to restrict expression because of its message, its ideas, its subject matter, or content." She said the Sign Code has been a hot button issue for this community for a number of years, and said now there is case law shaping the way our policy is written. She said the changes in the Sign Code had been hi-lighted. Mr. Sims said all of the Towns and Cities in Arizona have had to make changes to Sign Code regulations. Ms. Racette said she looked at current Town Code and the code the League of Cities and Town had sent, and said she made sure the codes lined up with Supreme Court Code and merged the Town Code and the League of Cities and Town Codes. Chairman Jarchow said the ultimate effect of this code says copy and color cannot be regulated. Mr. Sims said color could be regulated. Chairman Jarchow asked if color could be regulated, could font and typefaces be regulated. He said the community is envisioned as a mountain community, and said the Commission regulates certain fonts that are acceptable because the fonts are consistent with a frontier, mountain theme. Mr. Sims he does not think color is content, but said if font is tied to a theme it might be content. He said that would be treading on shaky ground when anything is restricted based on theme because that would be content. Ms. Racette said that is where she was heading with color, and said color was in the design review standards because of the mountain theme. Mr. Sims if color is meant for a theme, he said there would be an argument for being content based. More discussion ensued regarding

regulating color restrictions. Mr. Sims said he has a meeting at the League the following day with five City and Town attorneys to discuss the sign code changes, and said he had not looked at the changes to the existing Town Code that Ms. Racette had made and said he was planning to look at the changes before it was presented to Town Council. Mr. Sims asked Ms. Racette does this code restrict on color. Ms. Racette said yes, and said she is concerned it would be content based. She said the Code states "color would be consistent with color found on the design theme board and the design review standards." Mr. Sims said that would be close to being prohibitive. Chairman Jarchow said the strongest part of our Sign Code is the consistency of the design theme board and the design review standards, and said he would hate to see those removed. He said there had been uproar in the community when a former Mayor painted a retail sign bright red and when another business painted a tulip bright red, he said neither was consistent with the design theme of the community. He said the Commission tries to maintain a limited palate in the Community. Mr. Sims said he agrees with Chairman Jarchow, and said color should be something the Town could restrict. He said he would like to get back to the Commission after he meets with the attorneys at the League the following day. Commissioner Ingels said he cannot support the deletion of item A. 17.108.060 General standards for all signs. He said it says "all monument signs shall conform to the design review standards defined by the Town and colors shall be consistent with those found on the Design Guidelines Poster." He said the purpose of the Sign Code is referenced in the General Plan, and said it would support color and mountain themes. He said he would not support item A being struck from the Sign Code. Chairman Jarchow asked if the Commission was headed towards tabling this item until the January 28, 2016 meeting. Ms. Racette said the Town had not been enforcing the Sign Code because of the Supreme Court ruling until the Town could revise the Sign Code. She said the Town's restrictions are based specifically on color and not so much on content. Mr. Sims said he attended a meeting with all of the City and Town attorneys, all seventy, and said most jurisdictions are standing down on enforcing Sign Codes. He said he did not want to say anything about the risk associated in enforcing Sign Code based on color in a public meeting. He said he would talk with the other attorneys tomorrow, and said he understands the concerns of the Planning and Zoning Commission. He said as the Town attorney he would instruct the Town not to enforce the Sign Code. He said he would find out if other jurisdictions were enforcing on color. Vice Chairman Snitzer said in addition to color, materials are a concern for the Commission, he said, for example, forest themes with stone or wood. Mr. Sims said he would research this as well. Chairman Jarchow said it is not only material, but said it is also appearance. He said it is not so much materials used, but said for the appearance of the sign is consistent with theme of the community. Ms. Racette said 17.108.120 No. 4 says "Corporate banner signs (such as soft drink logo emblazoned banner signs used by food service establishments) shall be permitted provided the corporate logo does not exceed twenty (20%) percent of the sign field." She said this would be content determined on the amount of space. More discussion ensued regarding signage that was not clear on the recording with several voices talking at once. Chairman Jarchow said 17.108.130 Prohibited signs No. 10 states "Signs containing any statement, word, character, or illustration that is obscene." He said this had been struck due to content, and said where would the community stand being able to regulate highly offensive signs. He said there is a strong religious basis in the community, and asked if the Town would have any opportunity to help minimize obscene signage. Mr. Sims said this is a wide spread and national debate regarding the first amendment and the right of people to say things. He said it is one of the reasons the Supreme Court allowed people to express their views, and said No. 10 is an item the Supreme Court would strike.

COMMISSIONER INGELS MADE A MOTION TO TABLE SIGN CODE REGULATIONS UNTIL THE JANUARY 28, 2016 PLANNING AND ZONING COMMISSION MEETING. COMMISSIONER HESLOP SECONDED THE MOTION AND CARRIED UNANIMOUSLY.

ITEM NO. 7, STAFF REPORTS:

Chairman Jarchow asked Ms. Racette to give a staff report. Ms. Racette said the concept plan for Highway 260 was distributed to the Town Council and the Planning and Zoning Commission. She said it was the final concept plan, and said comments from residents are in the back of the concept plan. She said the consulting engineers had also included comments. She said the concept plan would be on the Town Council agenda for the January 21, 2016 meeting. She said Town Council would be prioritizing the projects to help her as she seeks funding for the project in the next five years. Chairman Jarchow asked for an update on the council priorities for Planning and Zoning from the implementation measures of the General Plan. Ms. Racette said it has not happened yet, and said not to anticipate it soon. She said she would ask the Mayor and work with him, but said unfortunately as they move into the budget season it is very busy. She said the General Plan is helpful to staff, and said it is being used. Chairman Jarchow said Planning and Zoning is looking for effective direction from Town Council which was asked for in September 2015. Ms. Racette said she is aware. She said there is the possibility of another Conditional Use Permit soon and site plan reviews. She said even though the Commission had not received Council direction, she said she is receiving council direction of what should be brought in front of the Commission. She said Town staff is working on several new developments, and said she plans for the Commission to have site plan reviews in the near future. She said there would be a Planning and Zoning retreat held when she hires the Planning Engineer Manager. She said Town staff is working hard on Code Enforcement on specific properties on Highway 260.

ITEM NO. 8, FUTURE AGENDA ITEMS:

Commissioner Ingels said it would have been nice to have a site plan of the property for the Conditional Use Permit. Ms. Racette said this would be land use. Commissioner Ingels said it would have helped with the location of the property, and said it would have been helpful to have a map or a photo of the property included in the packet. Ms. Racette said this would be appropriate to handle one on one with the Town Manager.

The meeting adjourned at 9:15 p.m.

Dated this 2nd day of February 2016.

PINETOP-LAKESIDE PLANNING AND ZONING COMMISSION

Jill Akins, Assistant to the Town Clerk