

**MINUTES OF THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, HELD THURSDAY, JANUARY 28, 2016, IN THE TOWN COUNCIL CHAMBERS.**

---

Chairman Jarchow called the Regular Meeting to order at 6:01 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>	_____	Timothy Williams	<u>X</u>	_____
James Snitzer	<u>X</u>	_____	Errol Heslop	<u>X</u>	_____
Rob Ingels	<u>X</u>	_____	Adam Staley	<u>X</u>	_____
Richard Smith	<u>X</u>	_____			

STAFF PRESENT: Evelyn Racette, Town Manager, Williams Sims, Town Attorney, Kathrine Nunn, Planning Tech and Jill Akins, Assistant to the Town Clerk.

ITEM NO. 3, CALL TO THE PUBLIC:

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

ITEM NO. 4, INFORMATION/DISCUSSION/LEGAL ACTION REGARDING CONDITIONAL USE PERMIT – 447 S. WOODLAND LANE – COMMUNITY COUNSELING CENTERS:

Ms. Racette said Mr. Sims would give an update on the Conditional Use Permit. Mr. Sims said he apologizes for the misunderstanding that occurred at the last meeting that he attended by phone. He said there was a misunderstanding between him and Town staff about and the number of residents that would occupy the facility. Mr. Sims asked Jeff Oakes, Community Counseling Centers Chief Executive Officer, to present and explain to the Commission how many residents would be in the Residential Care Facility. Jeff Oakes said he is the Chief Executive Officer at Community Counseling Centers. He said at this point they are requesting a Certificate of Occupancy for no more than six residents at the residential home. Mr. Sims said he met with Chairman Jarchow and Vice Chairman Snitzer before the meeting, and said he gave them his legal advice. He said if a majority of the Commission would like they could move into executive session so he would be able to give legal advice, or said he could give legal advice during the public meeting. He said the advice would be the rights of the Town given state statute. He asked the Commission if they wished to have the advice in private, or said would you like the advice in public. Commissioner Williams asked if the applicant has asked for up to six residents is a Conditional Use Permit required. Mr. Sims said staff reached a compromise with the applicant. He said without a Conditional Use Permit the concerned property owners would have no right to give the Commission their opinion and there would be no mandatory public hearing. He said the compromise struck with the applicant was the applicant agreed to have no more than six residents in the home. He said the meeting tonight is not a public hearing, and said tonight is an open meeting. He said the open meeting law gives constituents no right to speak, but said at a public hearing constituents have the right for unconstrained

speech. Chairman Jarchow said we are going to give the public the chance to speak. Mr. Sims said he is answering the questions of why he and staff decided to have a Conditional Use Permit. He said he and staff wanted to allow mandatory input from the citizens and neighbors and to require the property owner, the applicant in this case, to submit to certain requirements. He said with six or less residents our rights are limited. Commissioner Williams said the applicant does not have to come before the Commission for a Conditional Use Permit with six or less residents. Mr. Sims said unless the applicant is willing to come before the Commission, and said the Town Council had adopted a Code requiring a Conditional Use Permit. Mr. Sims said this gives the Town, the applicant, the Commission and Town staff a period of time to demonstrate that the use is not burdensome. He said if it is burdensome, if they are going to stay less than six, it gives the Town and the Commission the opportunity during the next twelve months to observe the use and restrictions that could apply and be adopted to residents. He said he is the Town attorney for Jerome, and said Jerome has a parking problem. He said there are restrictions for residences and businesses. He said he agrees with Commissioner Williams. He said he wanted to say this in private but the statute greatly limits the rights of the Commission. He said this is comparable to a liquor license. He said the Town has very limited input on liquor licenses. He said the Town received notice there would be this Residential Care Facility, and said there is nothing you can do to them as to a normal residence. He said he and the Town Manager discussed with the applicant the concern of the neighbors, and said the Town wants the ability, by using the Conditional Use Permit process, so the neighbors can speak their concerns. He said the applicant is required to comply with the business license statute and demonstrate all of their licenses with the Department of Health. He said this is a way for the neighbors to have the ability to speak to the Commission, the Commission to hear the neighbors, the applicant to demonstrate compliance to limited categories such as licenses. He said he talked to the applicant's attorney and said the applicant is doing the Conditional Use Permit voluntarily and it is not required. He said he and the Town are trying to create a process that would give a twelve month review policy. He said if the applicant stays at six or less residents, the Town cannot do much. He said the twelve months can be used as a checklist for the Conditional Use Permit. Mr. Sims said if the residence has over six residents the Town would have greater rights. He said the statute states you cannot impose access and traffic restrictions unless you impose on all residences. He said during the next twelve months if the applicant stays at six residents, staff can be asked to measure the occupancy, measure the number of vehicles, check for inordinate burden on the streets, and can something be passed that would be applicable to all residences to avoid a law suit. He said it would give the Town twelve months to see if the actual use creates problems. He said the Town business license statute states "the applicant shall produce such licenses required from the health department" and state "prohibited business locations, nor shall an applicant be licensed to operate a business in any congested area where its operations might impede traffic or otherwise inconvenience the public." He said this gives the Town the opportunity over the next twelve months to watch their use and refine the Conditional Use Permit so it applies equally to all residences. He said it is a tough deal, but said if the Commission does not do anything there would be no discussion. He said he and the Town are trying to create a process because the statute says nothing. He said the applicant had voluntarily agreed to a Conditional

Permit Process. He said if the applicant has more than six residents, which is more revenue for them, there are restrictions the Town can impose to make them go into a different district. He said if you decide to pass the Conditional Use Permit tonight the applicant has agreed to the Conditional Use Permit and had agreed to stay at six residents for twelve months, and said over the twelve months the use of the facility for access and traffic, noise, landscaping screening provisions, frequency of use could be monitored by Town staff. He said if in the next twelve months Community Counseling Centers does go over six residents we can put them in a different district, and said this is allowed by law. He said, in the meantime, if they stay at six residents they can stay in the home. He said if restrictions are put on the Residential Care Facility they would apply to the entire neighborhood. He said if the Commission does not issue a Conditional Use Permit; the applicant would still have the right to occupy the premises. He said he is suggesting the Conditional Use Permit gives us a process for input from the applicant and the neighbors to see if some of the burdens can be addressed in a way that satisfies the law by adopting criteria for the facility. Commissioner Ingels said if the Conditional Use Permit is granted or not, if the health, safety and welfare of the neighborhood are jeopardized who has the burden of proof to show between now and the one year period. Mr. Sims said he would invite dialogue between the applicant to be a good neighbor, and said for staff to meet with the applicant to measure the impact of the facility. He said he would not want to admit in public who has the greater burden. He said the statute does give the Town some powers, and said this was a compromise allowing the neighbors to talk to the Commission and the Commission and staff the right to talk to the neighbors. He said this is the hardest thing for the Commission to do, to balance the property rights of the neighbors and state law. He said the purpose of the Ordinance was to have a mechanism to encourage dialogue, have the applicant show there is not a meaningful impact with six residents, and said if there is a meaningful impact in the next twelve months find a way to restrict their use that would apply equally to residences in the neighborhood. Vice Chairman Snitzer said he did extensive research, and said he looked at the Americans Disability Act at [ada.gov](http://ada.gov) and looked at design standards, and said he looked at Arizona Revised Statute and case law. He said the applicant had revised their application to six residents and said there is nothing the Commission or Town can do. He said ARS (Arizona Revised Statutes) says six or fewer is treated like a family that would move in next door. He said if the Conditional Use Permit is granted the only effect would be a public hearing, and a public hearing a year from now, but said a public hearing would have almost no effect because they would fall under the protection of the law for six or fewer. He said the ADA (Americans Disability Act) is designed to prevent discrimination to a disadvantaged class, and said the ADA and the ARS make it very clear to treat six or fewer as a single family residence. He said if the applicant plans to have six people or fewer at the facility it would be almost the same cost to run the facility for six residents versus ten. He said the economic viability for the applicant is not as great for six residents versus ten residents. He said the ADA and the ARS completely change their orientation for when there are six or more residents underlining zoning is followed in a nondiscriminatory way. He said if the underlining zoning permits a use that is comparable to a similar facility then this facility must be allowed in the same zoning. He said the people living in the Residential Care Facility would be treating the home as their residence, they sleep and eat their meals in the home and keep their personal belongings in the home. He said case

law in California said a hospital and a nursing home would be a comparable use. He said Town of Pinetop-Lakeside's Town Code lists a boarding house, fraternity or sorority, a senior home and an orphanage as comparable use permitted in our Code. He said if they choose to have a home with ten people the comparable Town Code allowing this would be R2. He said in R2 they can have ten people and said the underlying zoning would apply. He said in the Towns underlying Code if the applicant chose to put ten people into an R2 area the Code would require at least a minimum of fourteen parking spaces off the street. He said in an R2 location there would be very little the Town could do about it, and said they would be treated like any other applicant for an R2 use. He said to Mr. Oakes that Community Counseling Centers came into the Town anticipating some opposition, and said they had done everything to guarantee opposition. He said the job of the Commissioners is to protect the Town, to promote the Town and do things that are in the best interest of the Town, and said honestly our Town is starving for new businesses. He said Mr. Oakes moved into the Town the wrong way and did not use resources he had access too. He said he would like the Town and Community Counseling Centers to press the re-set button. He said there is nothing the Town can do about six residents, but said he is very sure it would never be more than six residents in the home. He said more than six must be in a different zoning district. He said the Town has staff available to help businesses come into Town and become established. He said the Town has a fulltime grant writer available to help facilitate a larger more profitable facility, and said there are places in R2 zones or C1 zones in Town where this kind of facility would be an attribute to the Town. He said the Town is not against Community Counseling Centers, but against the home in this particular location. He said it is not an applicable location for this area, and said he hopes Community Counseling Centers would consider going beyond six residents and look for areas that would be better for both the Town and Community Counseling Centers.

Commissioner Ingels said he appreciates and agrees with Vice Chairman Snitzer. He said Arizona Revised Statutes ARS 36.581 provides Definitions "A residential facility means a home for persons with developmental disabilities and is licensed to operate." He said also in the definitions it states "developmental disabilities mean autism, cerebral palsy, epilepsy and cognitive disability." He said at the Public Hearing meeting on January 14, 2016, it was stated there would be a wide variety of people residing in the home and said he did not hear specific limitations to this definition. Brad Head said he is Director of Special Operations at Community Counseling Centers. He said the application and the license granted by Arizona Department of Health Services clearly indicates this is a residence for people who suffer from serious mental illness. He said the term disabled individuals that had been referenced in ARS 36.581 include people suffering from cognitive disability related to mental retardation and head trauma is not a mental illness. Chairman Jarchow asked Mr. Head to explain the type of individuals that would be in the home. Mr. Head said there would be individuals suffering from depression, bipolar and anxiety, and said they would be mental disorders that can be treated. He said people with cognitive disabilities such as those suffering from developmental disabilities, mental retardation, sex offenders and primary substance abuse diagnosis would not be at the facility. He said it is not a substance abuse treatment facility and it is not a halfway house. Chairman Jarchow asked if felons would be in the house. Mr. Head said felons would not be accepted in

the facility. Mr. Sims asked if the Department of Health Services licenses issued to Community Counseling Centers have a mechanism to ensure only the residents you had described would be occupying the home. Mr. Head said the rules that go along with the license clearly state Community Counseling Centers have to operate within the program description submitted to the Department of Health Services, and reviewed by the Department of Health Services when they visited the home for an onsite survey, and said the license clearly indicates a population of people suffering from mental illness. Mr. Sims asked how often the Department of Health Services expects Community Counseling Services to confirm the residents meet the correct classification. Mr. Head said the Department of Health Services has an initial inspection when the license is issued and annually thereafter or upon any significant complaints or issues to investigate. Mr. Sims said he debated with the applicant's attorney regarding the Town's business license Ordinance that states the Town has the right to make sure this facility has the correct license from the Department of Health Services. He said by pursuing the Conditional Use Permit process Commission can do two things. He said the Commission is the correct body to make sure the twelve hundred foot separation occurs. He said the applicant is voluntarily agreeing to the Conditional Use Permit process giving the Commission the right to enforce the twelve hundred foot separation, and said currently there are not any other facilities in the Town. He said the Commission could issue the Conditional Use Permit on the basis of the twelve hundred feet; ensure the applicant has the correct license and residents described by Mr. Head. He said annually the residence must maintain six or less residents and ensure the twelve hundred foot measurement. He said the statute reads "removing individuals from institutions and living in the community." He said statute 36-582 D. states "The provisions of this section shall not be construed to forbid the application to a residential facility of any local Ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity provided that such Ordinance does not distinguish residential facilities which serve six or fewer persons from other single family dwellings." He said if the Conditional Use Permit is granted the Commission has the right to approve based on the geographic separation of twelve hundred feet. Mr. Sims asked the applicant if their license had been seen by the Commission or Town staff. Mr. Oakes said the Department of Health completed a site visit and the license will be issued when the Town issues the Certificate of Occupancy. Mr. Sims said the applicant knows the Town's rights are limited and said the applicant helped describe the residents that would be served in the facility. Mr. Sims asked if there was a way to see the license before the Conditional Use Permit or the Certificate of Occupancy is given. Mr. Oakes said it is not possible, and said the license would not be issued until the Certificate of Occupancy is given. Chairman Jarchow said at the January 14<sup>th</sup> meeting the Commission heard from fifteen different people from the community located a mile or less from the property, and said everyone spoke against this facility. He said the Arizona Revised Statutes read by Mr. Sims does not give the Town or the Commission any control over the facility. He said the statutes say Community Counseling Centers can put six residents in the home and the Commission would have no input. Mr. Sims says the rights of the Town are the measurement of twelve hundred feet and the correct license from the Department of Health. Chairman Jarchow said it is going to happen, and said the question is does the Commission want to pass the Conditional Use Permit so there would be some level of

oversite allowing for monitoring over the next twelve months. He said this would have an impact on whether or not they would be able to continue the use of the facility. Mr. Sims said Chairman Jarchow explained the situation very well, and said the Commission said to give his advice in public. Mr. Sims said it is within the body of the Commission to police up the location of this use within the community, and said a department in the Town would need to enforce the one right allowed to enforce, particularly when the residents in the facility had been described and are noted in the meeting minutes. He said the particular type of residents does address the concerns of the neighbors. He said the Conditional Use Permit could be issued upon the receipt of the applicant's license and failure to issue the license would render the Conditional Use Permit rescinded. He said there is a finite type of resident they would be serving, trained staff would make sure the right type of people are in the facility, and said this would work to set the goal of institutionalizing the small set of people described and protecting the right of the community. He said it is not much, but said this is what the legislature had done. He said the Commission has the obligation to make sure facilities are not within twelve hundred feet of each other and Town staff has the obligation to make sure they have a Department of Health license. He said if the Commission does not want to do this the business license department could do this. He said since this is use and addressing the neighbors' concerns, he said the Conditional Use Permit could be conditioned on delivery of the license appropriately issued for the kinds of residents described by the applicant. Vice Chairman Snitzer said the Conditional Use Permit renewal would be conditional on an annual public hearing. Mr. Oakes said the Department of Health license is renewed annually, every twelve months. Mr. Sims said the applicant has an annual certification and said twelve months from now this process would begin again and a dialogue would happen, and said maybe there would be other districts where the facility could be relocated. Mr. Sims said twelve months from now the Town would ask to see the new license and condition the Conditional Use Permit by stating it is revocable if the license is not renewed. Mr. Oakes said the license from the Department of Health would be issued three weeks after the Certificate of Occupancy is issued. Mr. Sims said the Commission could approve the Conditional Use Permit modified on the condition that it would be rescinded in three weeks if the applicant does not receive their license from the Department of Health. Mr. Sims asked the applicant to give a description of the residents so the neighbors know who would be in the home, and said to give the Town their license each year, and said the Conditional Use Permit would be renewed annually on the submission of the license. Vice Chairman Snitzer said he would encourage the applicant to find a better and more profitable location for the facility. He said the Commission is not against the Community Counseling Centers and want them to succeed in Town, and said he is hoping there could be a better way for this to happen. Commissioner Heslop asked the applicant how they determine this is a Residential Care Facility versus a healthcare facility. Mr. Sims said it would be the job of Department of Health Services for determination. He said he likes the limited number of residents allowed in the facility, and said is there a generic term for the residents residing in the facility. Mr. Head said to classify the individuals in a generic term would be people who suffer from a serious mental illness, and said it would separate them from individuals with developmental disabilities. Mr. Sims said if action is taken the Commission could say serious mental illness as described in the meeting minutes. Commissioner Heslop said this would not

be a lockdown facility and said people will be able to come and go at will. He asked would there be people that are bi-polar and on medication. Mr. Head said we have had this discussion before in other open forums, and said he is surprised it had been brought up again. He said there would be people on medication, and said the staff would be onsite to assist people to self-administrate their medication. He said the resident would be given a reminder to take their medication and ask each resident if they had taken their medication. He said the residents are capable of taking their own medication, and said staff would keep the medication locked up so it does not get abused or misused. Commissioner Heslop said if there are six residents each with a vehicle and two staff members with vehicles, and said would the parking be addressed in the Conditional Use Permit. Mr. Sims said the current parking Code has limits on parking for residences and said there has to be at least two but there is no cap. He said if they remain at six residents and given the business license Codes lets the Commission look at the impact of traffic, and said you could direct Ms. Racette and her staff to monitor the parking and see if there is an inordinate amount of burden on the streets and said would there be a way to craft an Ordinance on public health and safety that would apply equality to a residence. He said the legislature drafted the statute that gives the Town limited powers. Commissioner Staley said he had two questions that he did not feel were appropriate for a public forum and said we would like to go into executive session so he can have his questions resolved.

**COMMISSIONER STALEY MADE A MOTION TO ENTER INTO EXECUTIVE SESSION. COMMISSIONER SMITH SECONDED THE MOTION AND IT FAILED 3-4 WITH CHAIRMAN JARCHOW, VICE CHAIRMAN SNITZER, COMMISSIONER HESLOP AND COMMISSIONER INGELS OPPOSED.**

Mr. Sims said it would not violate the open meeting law if I were to step out of the room with Commissioner Staley and answer his questions, and said it would not be a quorum. Commissioner Staley said he would ask them publically. Chairman Jarchow said to ask the questions and discuss in public. Mr. Sims said he respects the Commissioners for wanting to continue in front of the public, and said this is what government and democracy is about. Commissioner Staley said to move forward with the Conditional Use Permit voluntarily, he asked what is the benefit to Community Counseling Centers for moving forward into a Conditional Use Permit when they do not need to. Mr. Sims said the reason would be a compromise had been reached, and said the applicant had tried to go down a path that he is not legally required to do to give the neighbors the power of a hearing which is a much higher power than a public meeting. He said the business license would allow you to revoke the license if they lost their license from Community Counseling Services. He said the Conditional Use Permit gave the neighbors the right to petition the Commission. Commissioner Staley said the initial application was for ten residents in the facility and said it had been converted to six residents for which a Conditional Use Permit would not be necessary, and said why are we doing a Conditional Use Permit if it is not required. Mr. Sims said the Conditional Use Permit would make sure someone in the Town would have to measure twelve hundred feet in the future and someone in Town would have to confirm the license. Commissioner Staley said it is difficult to ascertain from a Town perspective what the recourse is for non-compliance, either

under a Conditional Use Permit or not, and said because we are going the Conditional Use Permit route what additional recourse does it give the Commission and the Town for non-compliance of the requirements. Mr. Sims said the business would be shut down if the two restrictions are violated and revoke the business license. He said the only right the Town has under the statutes is to confirm the facility has the appropriate licenses. He said it is the right delegation of power. He said the Commission and the Town have no way to determine if the residents at the facility have each of the different mental illnesses. He said if the Conditional Use Permit is not passed by the Commission, he said Ms. Racette would issue the business license. He said he did not think the Commission would want to go that route. He said right now, because there is not another facility currently in Town and the twelve hundred feet is not an issue, is to revoke the business license if they fail to have the appropriate license from the Department of Health Services. Commissioner Staley said what the applicant voluntarily admits too and agrees to tonight is part of the record, and said we can hold the applicant accountable. Mr. Sims asked Mr. Head for the correct term for the residents. Mr. Head said they are individuals who suffer from severe mental illness. Mr. Sims said the way the Ordinance was written was to give the Town a benchmark to ensure the appropriate clientele are in the facility, but said the next twelve months could be used to have dialogue to see if the facility could be moved to a different district and address the parking and usage of the street. He said staff would be directed to monitor the use of the facility, monitor the number of vehicles parked, frequency of the use of the roads, impact on the roads and present back to the Commission how the Ordinance could be modified to restrict the impact on the roads in a way that is applied equally to all residences. He said this is direction the Commission could give to staff. Commissioner Staley said exterior monitoring devices had been mentioned. He asked how is the inside of the facility monitored, and said for example if there are eight residents in the home and the Town was not disclosed of this information. Mr. Sims said he would not know how to find out this information except for contacting Department of Health Services. Mr. Oakes said the license they are requesting is up to six residents in the home, and said Department of Health Services would revoke the license if they exceed more than six residents in the home. Commissioner Heslop asked if there would be any liability issues to the Town by approving the Conditional Use Permit if a resident harms someone in the neighborhood. Mr. Sims said it would be difficult to show liability due to the statutes, and said the Conditional Use Permit gives the neighbors public input at least once a year, and the force of the Commission body and the meeting minutes would include the condition solely on the license that would not have occurred if Ms. Racette had just issued the business license from Town Hall. Commissioner Ingels said he is confused between the difference of a mental illness and a developmental disability. He said the Town Code and ARS definitions for a Residential Care Facility does not include bi-polar and schizophrenia as serious mental illness. He said this would be where the health and welfare of the residents and the neighbors is his concern. He said he would like clarity from the applicant or the Town attorney. Mr. Sims said the definition in statute and in the Town Ordinance is broader than the description of the clientele. Commissioner Ingels said his concern is in the Arizona statute it is very specific where developmental disability means "autism, cerebral palsy, epilepsy or cognitive disability." He said if mental illness, schizophrenia and bi-polar are a part of the definition he would have to

accept it, but said to him it is different than what he is reading in the ARS definition. Commissioner Staley said in his opinion it is not exclusive to everything controlled by Department of Health Services in terms of a Residential Care Facility, and said it is one sub category of developmental disability. He said it is not controlling all of the categories. Commissioner Ingels said residential facility definition “means a home in which persons with developmental disabilities live and is licensed, operated, supported and supervised by the Department of Health Services.” Commissioner Staley said the definition defines developmental disability, but said there are other mental illness and healthcare situations that are outside of this particular statute definition.

Ms. Racette said the Town and Mr. Sims did their best to provide information from ARS with key words used at the January 14<sup>th</sup> meeting, and said the wording had been different than mental illness at the January 14<sup>th</sup> meeting. She said disability had been used and not mental illness, and said the key word search used was disability. She said Ms. Nunn is looking up statutes from ARS for mental illness. Mr. Sims said the description of the applicant’s clientele is a much smaller subset of development disability. Mr. Head said the residents would be individuals who suffer from a serious mental illness. Mr. Sims asked Mr. Head to explain how this group of individuals was different from developmental disability. Mr. Head said it would be a different category, and said individuals suffering from a serious mental illness is a classification within the state behavioral health system of a certain group of people based on diagnosis, length of symptoms and expected treatment outcomes. He said a separate group from that group in the state system is developmental disability. He said they do not overlap. Mr. Sims said there would have to be a little overlap otherwise the license would not be issued, and said the applicant would have to follow the statute for a Residential Care Facility. He said mental illness is a subset of cognitive disability. Mr. Head said cognitive disability is a sub set of the overall mental illness, but said it does not fall in the category of serious mental illness which is even more specific. Chairman Jarchow said a public hearing was held on January 14, 2016, and said the public had unlimited time to speak. He said on an agenda item the public would be given five minutes to speak.

Steven Shumway said he lives at 380 E. Iris Lane. He said he has a background working with individuals who struggle with similar illnesses. He said his compassion for these individuals is high, and said he is grateful there are opportunities for them to receive help. He said the challenge being faced in the community is the discussion regarding property rights. He said as a developer he is aware of this, and said Mr. Sims defined well the challenge between current owner’s property rights and all other property owners’ rights around the facility. He said he and the neighbors are seeking help and consider action from the Town and the Commission. He said the questions he had had been answered very well tonight. He said he would appreciate the Conditional Use Permit be put in place, and said it does provide the right to restrict significantly how the property is used. He said it would also provide the right to come back in one year and approach the Conditional Use Permit on performance. He said a business tends to go in with these parameters and typically the parameters are forgotten quickly. He said it had been difficult to define the type of individuals that would reside in the facility. He said

serious mental illness becomes very broad. He said there is a right by law for the facility to be in the home, but said when it becomes a business that would be what the Conditional Use Permit process is for. He said he hopes as the process moves forward the safety of the children is considered. He said it takes a village, but said the rest of the statement is it takes a village to raise a child. He said it is the children in the area and property values in the area are the biggest concerns. He said the safety of the children in the neighborhood is the highest priority, and said the police department has limited resources. He said he owns a car wash on the main street through Town, and said it had been broken into and robbed three times in the last month. He said he reported each incident, and he said it is not his fault or the policeman's fault. He said in the instance of the facility it should be located in the correct area. He said once the business is established at the location it would be hard to move. He said he appreciates the consideration and research tonight by the Commission, and said they had done an excellent job. He said he appreciates the Commission recognizing the difficult decision to be made. Chairman Jarchow asked Mr. Shumway if he would want a Conditional Use Permit issued or not. Mr. Shumway said he would want the Conditional Use Permit to provide protection, and said the public hearing in one year would provide input from the community. Commissioner Staley asked if it is the stance of the Town and Commission that Community Counseling Centers is legally subject to a Conditional Use Permit even if they are not required to attain one. Mr. Shumway said it had been clarified tonight that is not the case, but said he is grateful there could be a Conditional Use Permit for allowing input. Mr. Sims said he does not want to over sell the Conditional Use Permit, and said the applicant had submitted to this process and allowed the public to have an opportunity to speak. He said this had been an attempt to invite dialogue with the community. He said legally the applicant would not have to submit to a Conditional Use Permit a year from now, but said if that would be the case the Town would revert to the business license conditions. Commissioner Staley said if the applicant subjects themselves to a Conditional Use Permit voluntarily or conditionally now, and said is the applicant subject to terms, conditions and provisions associated with the Conditional Use Permit during the year. He asked could they be held to the additional restrictions placed upon them in the Conditional Use Permit. Mr. Sims said if during anytime during the next year the Town becomes aware their Department of Health Services license had been revoked, he said the business license would be revoked. He said what is happening tonight is allowing the constituents to speak, allowing a public hearing and allowing the Commission to evaluate. He said if the Commission approves the Conditional Use Permit tonight, he said moving forward the Conditional Use Permit would be the right process to measure the twelve hundred feet.

Heidi Shumway said she lives at 380 E. Iris Lane. She said she has had many questions answered tonight, and said it had been a great discussion. She said she wants to promote business in Pinetop-Lakeside, but said she is against the facility in this location. She said it is the location that is the problem for her. She said she receives calls from families wanting to move to Pinetop-Lakeside, and said this would be a great deterrent for this neighborhood. She said growth and strength families would bring would not happen because they would not come to this neighborhood if the facility is located there. She said property values would decrease and that is a huge concern. She said the safety of the children is also a huge concern. She said

these are big risks, and said she is not in favor of the location. She said she is in favor of the Conditional Use Permit, and said to make it extremely strict and specific on who can reside in the home and keep a log of how many times the police are called out to the residence. She said she agrees with Commissioner Ingels regarding the residence being a healthcare facility versus Residential Care Facility. She said this is a business and the main objective is to make money, and said it does not belong in a neighborhood but in a commercially zoned area with adequate parking. Chairman Jarchow asked do you have any basis on how the Commission would be able to deny the Conditional Use Permit because ARS states it can be allowed for six people. Ms. Shumway said she does not have any basis for denying the Conditional Use Permit, but said it could be made strict. She said she hopes the applicant would understand it is not a good fit. She said whether the law says it is allowed or not, she hopes the applicant would see the facility does not fit in the community. She said it would be a detriment to the neighbors, the property values and the children. She said it would help six people, but said there would be far more than six families that would be affected. She said it would adversely affect the entire community. She said Commissioner Snitzers comments were great, and said the Town wants to promote businesses in the right places. She said for the applicant to find a location that would accommodate ten or more individuals and economically be a better fit. Commissioner Staley said would you rather have a Conditional Use Permit or not. Ms. Shumway said a Conditional Use Permit is needed if the facility comes into the neighborhood.

Commissioner Ingels asked for an explanation on how the Conditional Use Permit violations would be enforced, and what would happen if the facility is not in compliance. Mr. Sims said the applicant would have due process right through the Department of Health Services. He said the complaints would be filed with the Department of Health Services and not through the Town. He said staff could be asked to periodically inquire with Department of Health Services the status of the license. He asked if the applicant had their license with the Department of Health Services revoked it would be grounds to revoke the Town business license. He said the Town would not make sure they are in compliance, but said it would be the Department of Health Services. Commissioner Ingels said he needs clarity, and said the public would have an expectation their concerns would be presented to the Commission for the Commission to take care of. He said it would be for the Department of Health Services to know about complaints and violations. Mr. Sims said the applicant is subject to having a Town business license which is dependent on having a state license. He said failure to have a state license would revoke the business license. Commissioner Williams said at the January 14, 2016 meeting he asked for stipulations to be added to the Conditional Use Permit. He said for the Town to be notified by either the applicant or the police department if the residents were causing problems or the facility was having issues. Mr. Sims said that would be a challenge because it would have to be imposed on every family in Pinetop-Lakeside.

Cherilyn Halls said she lives on Osprey, and said she has two homes affected by this. She said there are two buildings on the property, and asked if the two buildings are connected. She asked if two buildings on the property would have an impact. Chairman Jarchow said the house precedes the incorporation of the Town, and said it might have been grandfathered in. Mr.

Head said it is one property, and said the two buildings are connected by a breezeway. He said it would be one facility with one address. Commissioner Staley said the application reflects approximately four thousand square feet, and said is inclusive of both buildings. Mr. Head said that is correct. Ms. Halls said she realizes the Commissions hands are tied, but said she hopes there would be a way to somehow monitor what is happening in the facility. She asked would reports of concern have to be made to the state. Mr. Sims said concerned constituents would call the Department of Health Services. Ms. Halls said the citizens would have to be vigilant. She said if there is a schizophrenic that is able to come and go from the facility by driving or walking, and asked is there anything the neighbors can do. She said the applicant said the residents are not drug users, but said are they being tested for illegal drug use at the facility. Mr. Head said drug testing would be done if there is a suspicion of illegal drug use at the facility. Ms. Halls asked what happens after the one year, and asked is it reviewed and approved for an additional year. Mr. Sims said the Town is suggesting a mechanism to encourage dialogue, and said the Conditional Use Permit would be issued for one year to match the annual certification of their license. He said the Town would request the applicant to come back in a year to renew. He said if they chose not to there would be little that could be done to encourage public input. He said there is the business license section of the Town Code, and said if they do not have a license with the Department of Health Services the business license could be revoked. He said in the meantime he would like the minutes to suggest that staff has requested on a quarterly basis to contact the Department of Health Services and check on the status of the facilities license. He said if the Conditional Use Process is continued there would be an annually review for less than six residents. He said if the neighbors see problems they would call the Department of Health Services, and Town staff should periodically check the facility. Ms. Halls said she would want to have the Conditional Use Permit.

Jerry Smith said he lives at 537 E. Oak Meadow. He said one quick note to facilitate what Vice Chairman Snitzer said and get a dialogue going, he said he has a buyer for the home with cash. He said the buyer has a daughter in the subdivision, and said the buyer would buy the home, get their money out of it and help the applicant find a commercial property. He said Commissioner Ingels had asked questions regarding a healthcare facility or a Residential Care Facility. He said the Commission should ensure that it is not a healthcare facility and is a Residential Care Facility. He said there are two criteria in the Town Ordinance defining a healthcare facility. He said one is fifty percent of staff time or more is derived from counseling. He said it is Community Counseling Services. He said the second criteria is how much money is derived, and said he assumes they receive money from the government, and said is fifty percent or more is derived from counseling the residents. He said it is the Town's Ordinance, and said to make sure it is the correct entity before you vote on the Conditional Use Permit. He said numbers here are four numbers, and said two hundred, two thousand, one hundred and thirty and twenty-five percent. He said this is going to effect the decision you make. He said two hundred is the approximate number of homes affected by the facility, two thousand is the average square footage per house and said the market value, prior to the facility opening, is one hundred and thirty dollars a square foot. He said the twenty-five percent is a guess on what the average loss in value would be. He said he does not know for sure what it would be

exactly. He said the valuation of the affected area is thirteen million dollars. He said to please consider these numbers. He said as values go down taxes also go down, and said there would not be as much revenue. He said there would be less funding for, fire departments, schools, etc. Chairman Jarchow said the Commission had been advised under Arizona Revised Statutes the facility would be allowed for up to six people and is a Residential Care Facility. He said the Town Ordinances would be superseded by state law. Mr. Smith said the neighbors are looking to the Commission for help, and said there is Town Ordinance affects neighborhood. Chairman Jarchow asked Mr. Sims if state law supersedes Town Ordinances. Mr. Sims said in this case it does, and said to make sure the facility is not a healthcare facility it would be indicated on the Department of Health Services license as a Residential Care Facility. Chairman Jarchow asked Mr. Smith what he would like the Commission to do. Mr. Smith said he would have the Town enforce the Ordinance. Commissioner Heslop asked Mr. Oakes if Community Counseling Centers had any other facilities in residential neighborhoods. He said there is not a residential facility like this in all of eastern Arizona. He said this would be the first opportunity for individuals to receive service and care without having to go to the Valley, Prescott or other areas.

Sherry Moreno said she lives at 443 East Meadow Lane. She said she agrees with Commissioner Ingels. She said developmental disability does not apply to some of the things that stated in the record by the two women that represented Community Counseling Centers at the Public Hearing meeting. She said those were schizophrenia, bi-polar, PTSD, narcotics and alcoholic abuse were mentioned as possible residents. She said Mr. Sims said what Mr. Oakes and Mr. Head stated as the type on residents in the facility would be recorded and in the minutes from tonight's meeting. She said what was stated in the record two weeks ago were schizophrenia, bi-polar, PTSD, narcotics and alcoholic abuse. She said they either misrepresented or did not know who the residents would be or the gentlemen tonight do not know. She said she agrees there needs to be a Conditional Use Permit. She said there is not a breezeway connecting the two structures, and said it looks like two separate buildings. She said she understands six people can live in the home, but said if the residents are coming and going from two buildings with only two staff members how would this be monitored. She asked would there be two staff members in each building watching over the residents. She said if there is only one staff member in each building one staff member could be held hostage in one building and no one would know. She said the parking situation would need to be addressed. She said parking allowed in the back yard of the facility will have a negative visual impact on the neighbors directly behind the facility. She said at the Public Hearing Ms. Racette was ready to pass and recommended to pass the Conditional Use Permit, and said she is so disheartened with all the time spent on reviewing the process, lawyers brought in and Ms. Racette who manages the Town failed to even recognize the huge discrepancies in the documents on the number of the residents in the facility. She said the Commission caught the discrepancies, and said Ms. Racette went on to say she had looked over the application and documents with a "fine tooth comb." She said if the discrepancies had not been pointed out at the Public Hearing Ms. Racette would have recommended for the Conditional Use Permit to be passed. She said had it gone through as Ms. Racette wanted it to we would have never been able to have a chance to have the facility not in our community. She said this is a huge point of contention with her. She

said it is a personal agenda of Ms. Racette's to push through the Conditional Use Permit for the facility. Ms. Racette said she recommended approval on six or fewer residents at the Public Meeting.

Lorenzo Santana said he lives at 391 Linda Lane three lots down from the proposed facility. He said he appreciates the opportunity to talk to the Commission. He said laws are in place for public safety and overall benefit for the entire community. He said Ordinance 17.104.160 section B Definition of a Residential Care Facility is an establishment or business which serves six or fewer people whom medical care or counselling is not a major element." He said section C Definition of a Healthcare Facility "derives fifty percent (50%) or more of its income, or expends fifty (50%) percent of more of its staff time providing medical services, counseling, or other health care services by persons or at facilities required to be licensed or certified by the State of Arizona Department of Health Services." He said section H states "No Direct Threat to Health, Safety and Welfare means a Residential Care Facility shall not include any person whose occupancy would constitute a direct threat to the health or safety of neighbors or other persons. A Residential Care Facility will 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 they would not allow a criminal, sex offender, or a juvenile delinquent in the facility, but said if they are mentally disabled they would be allowed. He said with these sections in mind he would like to read the definition of some of the individuals allowed in the facility. He said the definition of bi-polar disorder from the Mayo clinic states "Bi-polar disorder formally called manic depression causes extreme mood swings including emotional highs, mania and hypo-mania, lows, depression and sadness. Including mood shifts and mood shifts could occur several times a year, a week or several times a day. Although bi-polar disorder is a disruptive, long term condition, moods could be kept in order by following a treatment plan. In most cases bi-polar disorder can be controlled with medication, psychological counseling and psychotherapy." He said the definition of a schizophrenic as listed in Web MD states "Schizophrenia symptoms include the distorted thoughts, hallucinations, feelings of fright or paranoia. Psychiatrists evaluate symptoms with tests and medical history and distribute medications and prescribe psychotherapy for treatment. Schizophrenia is a serious disorder affecting the way a person thinks, acts and their emotions can deceive reality in relating to others. People with schizophrenia are the most chronic and disabling of mental illnesses often having problems functioning with people and maintaining relationships. Schizophrenia can leave the person frightened and withdrawn. It is a lifelong disease that cannot be cured but can be controlled with proper continuous treatment. Contrary to popular belief schizophrenia is not split or multiple personalities, but a psychotic disorder and at times a person cannot tell what is real or imagined and can lose touch with reality. The world may seem like a jumble of confused thoughts, images and sounds. The behavior of people with schizophrenia may be very strange and shocking, with sudden changes in personality or behavior which occurs when people with schizophrenias lose touch with reality, and said this is called a psychotic episode." He said with those definitions in mind, and said these individuals in this facility would receive medical care and counseling. He said medical care and counseling would be a major element in the facility. He said the residents would need continuous care and treatment like a Healthcare

Facility would provide. He said it is for Community Counseling Centers to show the facility is not a Healthcare Facility. He said if there are individuals in the facility needing continuous treatment, continuous medication and continuous counseling, he said it is more than a fifty percent of the staff's time and more than fifty percent of their income going towards counseling and treatment. He said it would need to be determined from the Department of Health Services the definition of a Healthcare Facility, and how the facility would be monitored. He said they would have to show it is not a Healthcare Facility, and said if they cannot the facility should be in another zoning area. He said he is for providing healthcare for people needing it, and said it could be a successful business in this community, in the right place and if it had been done the right way and with the proper community support. He said there are other options, and said there is still time for the other options. He asked the Conditional Use Permit not be issued based on the definition of the Healthcare Facility and on the fact the residents could be a threat to the health and safety of the community. He said he would like further investigation done whether it is a Healthcare Facility or not and how the facility would be monitored. He said no one has answered the question on how the facility would be monitored. He said he understands the Town is trying to avoid any legal action from the State at this time, but said at what cost. He said is the Town willing to accept legal action later from something that could happen in the community to property damage or individuals. Chairman Jarchow asked Mr. Oakes or Mr. Head to respond. He asked if Mr. Oakes or Mr. Head would be able to clear up the definition between a Residential Care Facility and a Healthcare Facility as listed in Town Code 17.104.160 under definitions. Mr. Head said in their application to Arizona Department of Health Services office of licensing it was clearly stated that less than fifty percent of the services provided in the facility would be counseling. He said the primary source of counseling for the residents in the facility would occur at the outpatient centers. He said the residents would go to an outpatient center to receive counseling. He said services provided onsite would primarily be case management and living skills training. He said living skills training is geared towards making the residents more independent so they would be able to live on their own. He said living skills training includes cooking, shopping, cleaning and hygiene. Chairman Jarchow said living skills training is not counseling. Mr. Head said no it is not counseling. He said counseling would be done by a higher level staff member, usually someone that has a master's degree and is licensed by the State of Arizona. He said it would involve more of a therapeutic interaction looking at underlying motives for what they are doing. He said living skills training is a hands on approach to teaching a skill. He said Arizona Department of Health Services has a guide explaining the various services provided of which Community Counseling Centers use Codes to remit for those services. Commissioner Williams asked Mr. Sims if a resident does something, for example committing a crime, who would be held liable, and asked if a resident does commit a crime would Community Counseling Centers take the responsibility. Mr. Sims said the care provider would be liable if the care provider was negligent. He said the Town could be exposed to liability if the facility is allowed to operate without checking that it has a license with the Department of Health Services. He said part of the discussion would be that there is a mechanism in place to make sure they have a license. He said this discussion regarding if it is a Healthcare Facility or a Residential Care Facility is the decision of the Department of Health Services. He said the Town Ordinance is very complicated

and very confusing. He said the Town protection would be if the Conditional Use Permit is authorized it would be dependent upon the receipt of the license from the Department of Health Services for a Residential Care Facility. He said the care provider would be liable for any negligence, and said the Town would not be negligent for authorizing a business license. Commissioner Ingels asked if there was any more clarity on the definition of mental illness. He said it would help his mind in defining Residential Care Facility versus a Healthcare facility. Mr. Sims said Ms. Nunn found the definition of mental illness in a different statute, and said it was a criminal statute. He said if they do not have the correct license the Arizona Department of Health Services would know. He said the definition is broader than the list in the statute they had been working with. He said he is not sure how this would be resolved, and said it is an issue that he cannot resolve. He said the definition of the residents described by Mr. Head is a subset of individuals described in the broader statute. He said the Town and the Commission has to have some comfort as what the exact list of residents would be. He asked Mr. Oakes or Mr. Head if there was any way for that to be done tonight. He said when he looked at the minutes from the meeting on January 14, 2016, he said it was listed it would not be a detox facility and no felons. He said how do we understand what serious mental illness means, and said he does not have a good definition now. Mr. Head said a definition might be found under serious mental illness and not mental illness. He said mental illness is a general term and would not fall into the category of serious mental illness. He said serious mental illness is defined in the Arizona Department of Health Services and in statute. Mr. Sims said it might be listed there, but said we do not have access to the regulations. Commissioner Williams asked what statute that would be. Mr. Head said he did not know. Commissioner Staley said Mr. Head said it would be in the regulations with the Department of Health Services, but said the Commission would not have access. Vice Chairman Snitzer said he had made a list of conditions the Commission could consider applying to the Conditional Use Permit. He said he had listed them as follows:

1. The Conditional Use Permit would be for one year duration with certification of their license.
2. Maintain a business license with the Town.
3. The Residential Care Facility clients would be limited to serious mental illness as described in the meeting notes from this meeting.
4. Upon the one year period there would be a public hearing before renewal of the Conditional Use Permit.
5. The facility would maintain twelve hundred foot spacing. Mr. Sims said this would have to be struck.
6. Community Counseling Services would show and maintain a license with the State Department of Health Services as a Residential Care Facility.
7. Town staff would check with the Department of Health Services quarterly to monitor complaints against the Residential Care Facility.

Mr. Sims said this is an excellent list, and said the Commission is very, very close. He said number seven the quarterly check the Town could not be able to impose. He said a

professional providing these services would be exposed to criminal sanctions if done without the proper license. He said the definition of mental illness is found in the criminal statutes. He said the Commission now has a good list. Chairman Jarchow said if the license granted by the Department of Health Services does not say Residential Care Facility, and said the facility cannot operate with six or fewer in the facility. Mr. Sims said they would not be able to operate at all without the proper license from the Department of Health Services. Chairman Jarchow said the Department of Health Services has to furnish a license stating the facility is a Residential Care Facility. Mr. Sims said that is correct. Chairman Jarchow said if that is the case the applicant can run the facility for six or less residents whether the Commission passes the Conditional User Permit or not. Mr. Sims said that is correct. Vice Chairman Snitzer said there are five restrictions the Commission could put on the approval of the Conditional Use Permit. Mr. Sims said the twelve hundred foot separation would be imposed on the Commission, and said it would be for the Commission to make sure there are no other facilities within twelve hundred feet of this one. Mr. Sims said quarterly checks with the Department of Health Services would be for Town staff to handle. He said the statute does allow the Commission to impose restriction if they could be imposed on all residences. He said the next twelve months could be used to see if there had been any impact on the neighborhood and staff would be able to come back to the Commission for modification to the Ordinance, but said it would have to be equally applicable to all residences. Commissioner Staley said he would like clarification on revising or amending the application to reflect a maximum of six residents. He said he would be more comfortable with the change or make it part of the approval for the Conditional Use Permit. Vice Chairman Snitzer said he would change number five to state "Show and maintain a license with the State Department of Health Services license as a Residential Care Facility to maintain six or less residents." Commissioner Staley said he could not find any resident numbers on the application for the Town business license. Mr. Oakes said they would amend the business license application to say six or less residents. Commissioner Staley asked if the application for the Department of Health Services would also state six or less residents. Mr. Oakes said yes. Mr. Santana said he had two additional questions. He asked if the residents had an issue would they wait until their scheduled counseling times, and asked if the onsite staff is trained for counseling or issues that could arise? He said the mental disorder issues listed in the statute did not list schizophrenia and bi-polar and said autism and other issues were listed. He said these are separate categories, and said if they are not on the list it could be argued. Chairman Jarchow said if the Department of Health Services issues a license for a Residential Care Facility it would trigger the language as listed in Arizona Revised Statutes. Mr. Santana said it does not list bi-polar or schizophrenia, and said it would need to be clarified. Chairman Jarchow said "Residential Care Facility means a house in which persons with developmental disabilities" and said under developmental disabilities it states "meaning autism, cerebral palsy, epilepsy or cognitive disability." Mr. Head said none of those disabilities impose bi-polar or schizophrenia, and said it would be a different category. Chairman Jarchow said the Commission is not the correct body to label the disabilities, and said the Commission would have to take advice from someone else on this. He said the Department of Health Services would know a lot more about cognitive disabilities than the Commission. Mr. Santana said the Town has a good lawyer that would be able to fight it. Mr. Sims said he is doing the

legal work as the discussion is happening. Commissioner Ingels said he is concerned as a homeowner and as a business owner, and said he has issues trying to interpret the State law and the Town Ordinance. He said he is concerned with wanting the first Residential Care Facility being as complete and correctly done as possible. He said he is very uneasy that the Commission and the Town would be sending the message that this is the type of facility wanted in the residential neighborhoods.

He said the Town does want and need this type of facility in our community, but said it needs a more appropriate location than in a residential neighborhood on a cul-de-sac road. He said he still has issues with the definition of the facility and said he is very uncomfortable about sending a message out to the community that this type of facility is what we want in our neighborhoods by the action the Commission takes. Commissioner Williams said he does not think it is what the Commission wants, but said the Commission has to follow the law. Commissioner Ingels said he would feel better if he could see a preliminary application from the Department of Health Services listing development disabilities and the facility is limited to six or less applicants. He said he is concerned with the severe mental illnesses. Vice Chairman Snitzer said he agrees, but said if the Commission does nothing tonight all leverage would be lost. He said the facility would open and the Town would have no leverage and no leverage in the future. He said the Commission is left with the choice of a bad choice or a really bad choice. He said the bad choice would be to issue the Conditional Use Permit with conditions attached, and said the really bad choice would be if the Commission did not issue the Conditional Use Permit and Community Counseling Centers would be free to do what they want. He said he is not happy about this decision, and said he believes there is a better solution for the location of the facility and hopes work is done to find a better solution. He said he wants Community Counseling Centers to have a successful business in our Town in the correct place. He said it is not in the right place now, but said the Commission would not be able to stop that. Mr. Santana asked Mr. Smith if he was serious about knowing a cash buyer for the property. Mr. Smith answered yes. Mr. Santana asked Mr. Oakes if he would be willing to sell the property and relocate the property. Chairman Jarchow said it is not appropriate to negotiate a real estate deal during the meeting. Mr. Santana said he apologizes, and said he is just trying to find a solution. Commissioner Ingels said regarding that comment would the applicant like to speak regarding this suggestion, and said why the applicant is so focused to gain the Conditional Use Permit in this neighborhood. He said if the applicant would comment it would affect how he votes. Mr. Oakes said at this point Community Counseling Centers would like to request a Conditional Use Permit. He said there are a number of services Community Counseling Centers provide for the community, and said this would be a good location to provide these services.

**VICE CHAIRMAN SNITZER MOVED TO GRANT THE CONDITIONAL USE PERMIT TO COMMUNITY COUNSELING CENTERS WITH THE FOLLOWING FIVE CONDITIONS: THE CONDITIONAL USE PERMIT WOULD BE FOR A ONE YEAR DURATION TO MATCH THE CERTIFICATION PERIOD OF THEIR LICENSE; SHOW AND MAINTAIN A BUSINESS LICENSE WITH THE TOWN OF PINETOP-LAKESIDE; THEIR CLIENTS WOULD BE PEOPLE WITH SERIOUS MENTAL ILLNESS AS DESCRIBED IN THE MEETING MINUTES FROM THIS MEETING; AT THE END OF THE ONE YEAR PERIOD THERE WOULD BE A PUBLIC HEARING PRIOR TO THE RENEWAL OF THE CONDITIONAL USE**

**PERMIT; COMMUNITY COUNSELING CENTERS MUST SHOW AND MAINTAIN A LICENSE WITH THE STATE DEPARTMENT OF HEALTH SERVICES AS A RESIDENTIAL CARE FACILITY FOR SIX OR FEWER PEOPLE. COMMISSIONER STALEY SECONDED THE MOTION.**

Commissioner Smith said if the motion does not pass the facility would open. Vice Chairman Snitzer said yes, and said the applicant does not have to extend this opportunity to the Commission. He said they are voluntarily accepting the Conditional Use Permit and said they would abide by the terms of the Conditional Use Permit. Commissioner Ingels said he would like to have the specifics of the mental illness referenced by the applicant versus referencing the ARS definition in case clarity needs to be made. Vice Chairman Snitzer said the ARS definition is covered under the licensing, and said it might be considerably broader than what the applicants limits their residents to. Commissioner Ingels said if the action is a favorable vote he would like it made clear what type of mental illness patients are appropriate for the residential neighborhood. Chairman Jarchow said it would be the job of the Department of Health Services to determine. Commissioner Staley said to make it specific that it is serious mental illness. Commissioner Heslop said he would agree a Conditional Use Permit is the best recommendation, but said he would like to go on record that he does not feel this facility would be a good facility for this neighborhood.

**THE MOTION CARRIED 6-1 WITH COMMISSIONER INGELS OPPOSED.**

**ITEM NO. 5, INFORMATION/DISCUSSION/LEGAL ACTION REGARDING SIGN CODE REGULATIONS:**

Ms. Racette said Mr. Sims had met with other City and Town Attorneys since the last meeting, and said discussed color which was a concern of the Commission. She said color was a concern, and said after a discussion with the League of Arizona Cities and Towns color can be regulated. She said item No. 10 in 17.108.130 Prohibited signs "Signs containing any statement, word, character, or illustration that is obscene." would have to be removed. She said item No. 4 under 17.108.120 Temporary sign regulations "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." would have to be removed. She said this is due to the percentage, and said it would have to be removed. Chairman Jarchow said we do not regulate the content of corporate banners and we do not regulate statement words, or character illustration of signs. Ms. Racette said correct and said that is what she is proposing. Commissioner Ingels said he is supportive of the two minor sign Code changes.

**COMMISSIONER INGELS MOVED TO RECOMEMND TO THE TOWN COUNCIL THE APPROVAL OF THE SIGN CODE REGULATION WITH THE DELETION OF NO. 10 FROM 17.108.130 AND THE DELETION OF NO. 4 FROM 17.108.120. SECONDED BY COMMISSIONER SMITH AND THE MOTION CARRIED UNANIMOUSLY.**

ITEM NO. 6, STAFF REPORTS:

Ms. Racette said she had been working on the Residential Care Facility for the past couple weeks. She said there is a possible new development she and staff had been working on. She said the process is taking longer because she is working with Code. She said if the Commissioners hear anything regarding the Town being really hard now or never having to follow this procedure in the past, she said it is because the Town is currently following the Code and provisions that are set forth in the current guidelines. She said when items are brought to the Commission in the future, such as site plan reviews, they would have gone through the correct procedure with Code. Commissioner Williams asked for the status of the Taco Bell remodel. Ms. Racette said the building permit had been issued, but said construction had not started. She said the communications tower had been installed and it is at full height.

ITEM NO. 7, FUTURE AGENDA ITEMS:

Commissioner Ingels said he would like to hear from the Town Council what priorities they would like from the Commission. Chairman Jarchow said it was supposed to have been set in September 2015. Commissioner Ingels said would the Council give consideration to where a Town Center would be located, either on a temporary or long term basis. He said in regards to the Planning Commission and the General Plan there should be some public input and interaction, and said it would be appropriate on a future agenda item. He suggested looking over some previous Town Center plans and suggestions. Ms. Racette said it is a great suggestion, and said the building of a new property had not been made. She said the Council would need to make the decision on relocating Town Hall, and said then the Town could move forward in that capacity. Commissioner Heslop said he would like to follow-up with the Commission and the Town Manager on the application for the Conditional Use Permit. He asked how the Town will know if all of the approved conditions are adhered to by the applicant. She asked would the Commission like to see the license. Commissioner Heslop said yes. Chairman Jarchow said the Commission grants Conditional Use Permits, and said the Commission has two authorities. He said they are to grant Conditional Use Permits and approve Site Plans. He said the Commission set the conditions, and said it would be up to staff to carry them out. Commissioner Heslop asked who would follow through with the recommendations made tonight in the Conditional Use Permit. Ms. Racette said it would be the job of Town staff to implement the policies, and said it is a public document and the Commission would be able to see the documents. She said the Commissioner and the neighbors would also be able to follow up on the documents. Vice Chairman Snitzer thanked Mr. Sims for his hard work with the Residential Care Facility and the Sign Code. Mr. Sims said Pinetop-Lakeside had shown the participation of democracy, and complimented the Commission for how the meeting had been run. Commissioner Williams said Ms. Racette would

work with the County Manager to arrange a meeting with the Planning and Zoning Commission and the County Manager.

The meeting adjourned at 8:21 p.m.

Dated this 9<sup>th</sup> day of February 2016.

PINETOP-LAKESIDE PLANNING AND ZONING COMMISSION

---

Jill Akins, Assistant to the Town Clerk