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# Planning Commission Study Session

**TO:** PLANNING COMMISSION

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**MEETING DATE:** APRIL 2, 2014

**SUBJECT:** Z13-11: BEHAVIORAL HEALTH HOSPITALS TEXT AMENDMENT:  
REQUEST TO AMEND THE LAND DEVELOPMENT CODE (LDC) LAND  
USE REGULATIONS AND USE DEFINITIONS FOR HOSPITALS.

**INITIATIVE:** Community Livability

The proposed text amendment will clearly identify in-patient behavioral health care as a type of hospital and address any concerns about compatible uses.

**RECOMMENDED MOTION**

**NO MOTION REQUESTED; INPUT AND DIRECTION FROM THE PLANNING COMMISSION IS REQUESTED ON THE PROPOSED TEXT AMENDMENT.**

## **BACKGROUND/DISCUSSION**

### **History**

<i>Date</i>	<i>Action</i>
July 3, 2013	Planning Commission discussed the proposed Behavioral Health Hospital text amendment and conducted the Citizen Review meeting, but did not initiate the text amendment.
December 4, 2013	Planning Commission conducted a second Citizen Review meeting and initiated this text amendment.
March 5, 2014	Planning Commission discussed the proposed Behavioral Health Hospital text amendment and continued the case to the April 2, 2014 Study Session for further discussion.

### **Overview**

This discussion item considers potential amendments to the Land Development Code (LDC) related to behavioral health hospitals per Town Council's request. Based on the public meetings held to date, two possible options have advanced to address concerns about compatible uses:

- 1) To modify the use definition for "Hospital" to specify that it includes behavioral health care services; and
- 2) To require approval of a conditional use permit for a "Hospital" in two Commercial zoning districts (General Commercial and Regional Commercial) as well as the Public Facility/ Institutional zoning district.

An action item was presented to the Planning Commission on March 5, 2014. At that time, staff recommended modifying the use definition for "Hospital" to specify that it includes behavioral health care services. Staff's recommendation is based upon the Town's research and existing zoning interpretation. After much discussion, the Commission voted to continue the item to the April Study Session agenda and requested that staff present additional options including the possibility of requiring a Conditional Use Permit for hospitals and the possibility of a separation buffer between hospitals and certain sensitive uses like schools.

The Zoning Administrator issued an interpretation for Saguaro Springs Behavioral Health Hospital on October 10, 2013. The formal interpretation responded to an applicant challenging the location of the proposed facility in the Regional Commercial (RC) zoning district. In making the determination, the Zoning Administrator considered and found that:

- 1) Arizona Department of Health Services (AZDHS) definitions and rules implicitly recognize that behavioral health facilities and hospitals are regulated and licensed as medical facilities without meaningful distinctions;
- 2) The proposed behavioral health hospital meets the definition and is substantially similar to a "Hospital" and "Medical Offices and Clinics" as those uses are defined in the LDC; and
- 3) The proposed behavioral health hospital is a permitted use in the Regional Commercial (RC) zoning district under the LDC.

As described in the March 5<sup>th</sup> Planning Commission staff report, Planning staff performed extensive research on zoning regulations related to behavioral health facilities within seven Arizona cities and three communities known to have these facilities in Colorado, Ohio and Texas (See Attachments 2 and 3). Staff determined that:

1. Most cities classify inpatient behavioral health facilities as hospitals. Chandler, Glendale, Phoenix, Scottsdale, Tempe and Tucson classify behavioral health inpatient facilities as hospitals and numerous hospitals incorporate behavioral health care units and services. They fall within the “hospital” use classification for land use and zoning purposes. Of the seven Arizona cities surveyed, only Prescott categorizes this use as “Assisted Living”.
2. These types of hospitals are permitted “by-right” in certain zoning districts and by use permit approval in other districts. As discussed below, Gilbert’s zoning code follows this same process.
3. None of the ten cities surveyed require any separation distances or special buffering from behavioral health facilities to other uses.
4. The Arizona Department of Health Services (AZDHS) Division of Behavioral Health Services defines Inpatient Services as follows:  
*Inpatient Services.* “A behavioral health service provided in a psychiatric acute hospital (including a psychiatric unit in a general hospital), a residential treatment center for persons under the age of 21, or a sub-acute facility.” Inpatient behavioral health services may be provided in a general hospital. Moreover, AZDHS has recently issued new rules integrating behavioral health licensing into medical facilities licensing, including hospitals.
5. Many hospitals contain behavioral health units or wards to provide these health care services in their facilities.
6. Data comparing police calls for service at general hospitals and behavioral health hospitals show that on average, general medical hospitals place more police calls than the behavioral health hospitals.

Based on the characteristics of behavioral health care facilities, the types of activities that occur in conjunction with this use, and the research and findings summarized above, Planning staff concludes this use most closely resembles a hospital use classification when inpatient care is provided. Staff is of the opinion that amending the “Hospital” use definition to include behavioral health care is the most effective and logical approach to regulating this use consistently. Staff is concerned that establishing a separate definition for Behavioral Health Hospitals would potentially set up a significant conflict for a hospital use that includes inpatient behavioral health care as part of its services.

To address concerns about compatible uses, the second LDC amendment staff proposes would require that the Planning Commission approve a Conditional Use Permit (CUP) for hospitals in the General Commercial (GC), Regional Commercial (RC) and the Public Facility/Institutional (PF/I) districts, as previously described above. Gilbert’s “Hospital” use is permitted by right in two Commercial zoning districts (General Commercial and Regional Commercial) as well as the Public Facility/Institutional district, and by approval of a Conditional Use Permit in one Office (General Office) and one Employment (Business Park) district.

Under the proposed text amendment, hospitals proposing to locate in any of these Commercial, Office, Employment, or Public Facility zoning districts would be required to apply for a CUP. The definition of a CUP, the applicable procedures and findings required for approval are outlined below:

***Excerpts from LDC Article 5.4 Use Permits:***

***Conditional Use Permit.*** A use permit approved by the Planning Commission for a use in specified districts based on a determination of compliance with standards set forth in the Base District Regulations and individual review of their location, design, configuration, intensity, and density of use or structures.

**Section 5.402B** requires the following:

**Conditional and Special Use Permits.** The following procedures shall apply to applications for Conditional and Special Use Permits:

1. *Application*
2. *Public Notice*
3. *Staff Report*
4. *Public Hearing*
5. *Planning Commission Action*
6. *Appeal*

**Section 5.403C and E** read as follows:

**C. Finding Required for Approval of Conditional Use and Special Use Permits.** The Planning Commission may approve a Conditional Use Permit or Special Use Permit as submitted or modified only upon making the following findings:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

**E. Findings Required for Denial of Conditional Use and Special Use Permits.** If the Commission is unable to make the required findings for approval, it shall deny the application, in which case the Chair shall state in writing the reasons for that determination.

### ***Other Options***

Staff is continuing to investigate the concept of separation buffers between hospitals and sensitive uses, which would likely include “Day Care Centers” including preschools and “Schools, Public or Private”. This investigation involves identification of vacant parcels that are zoned for hospitals and then plotting varying separation buffer distances around those potential hospital sites. Staff is prepared to share the results of our investigation once this information is plotted on a map(s) and analyzed. As a result, a separation buffer between hospitals and certain sensitive uses is not included in this discussion of proposed text amendments at this time.

### ***Other Relevant Health Care Information***

Health care services are a valuable part of the community and help address a wide variety of health-related conditions and illnesses. Gilbert is welcoming to business including the health care industry, as shown below in recent information provided by our Office of Economic Development:

- Through healthcare growth in the community, Gilbert has seen notable advancements in:
  - Stem Cell Therapy and Research
  - Oncology Therapy and Research

- Cardiovascular Research
- Regenerative Medicine
- Medical Devices and Equipment
- Pharmaceuticals/Nutraceuticals
- Gilbert provides abundant opportunities for collaboration, research and development, and development of intellectual properties.
- The community is conveniently located between two airports with commuting accessibility to 100,000+ healthcare practitioners and technicians.
- Over 2 million square feet of state-of-the-art hospital and clinical research facilities including Mercy Gilbert Medical Center; Banner Gateway Medical Center; and Gilbert Hospital.
- Approximately 300 acres of Gilbert commercial real estate earmarked for healthcare facilities and services.

### **Summary of Proposed Zoning Code Amendment**

Planning staff proposes a text amendment to the Land Development Code’s (LDC) Article 2.3 Commercial Districts and Article 2.7 Public Facility/Institutional District to amend the Land Use Regulations as follows:

*The “Hospital” use classification will be designated “U” designating that it requires a Conditional Use Permit pursuant to Article 5.4: Use Permits, in the General Commercial (GC), Regional Commercial (RC) and Public Facility/Institutional (PF/I) zoning districts.*

Planning staff proposes a text amendment to the Land Development Code’s (LDC) Use Definitions. Article 6.1 Use Definitions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

#### **Article 6.1 Use Definitions**

##### **Health Care Facilities.**

*Hospital.* A facility licensed by the State of Arizona that provides HEALTH SERVICES INCLUDING diagnosis and treatment of patients and inpatient care by a medical staff. THIS USE INCLUDES BEHAVIORAL HEALTH HOSPITALS PROVIDING IN-PATIENT MEDICAL CARE FOR TREATMENT OF ADDICTIONS AND MENTAL ILLNESS.

#### **STAFF REQUEST**

**NO MOTION REQUESTED; INPUT AND DIRECTION FROM THE PLANNING COMMISSION IS REQUESTED ON THE PROPOSED TEXT AMENDMENT.**

Respectfully submitted,



Mike Milillo  
Senior Planner, CSBA

**Attachments:**

1. Summary of Relevant Information Compiled by Staff
2. Hospital Comparison
3. Police Calls for Service Comparison
4. Minutes of the Planning Commission, dated March 5, 2014

**Summary of Relevant Information Compiled by Staff:**

## 1. Comparison of Hospital Definitions:

- Staff researched the definitions and zoning regulations in ten communities both within Arizona and out of state. Local communities include Tempe, Chandler, Glendale, Scottsdale and Phoenix. Other Arizona communities include Prescott and Tucson. Comparable communities outside Arizona include Louisville, Colorado, Carrollton, Texas and Dublin, Ohio.
- Of the seven Arizona cities researched, six include behavioral health hospitals under the hospital definition.
- Of the local (Phoenix area) cities researched, four allow hospitals by-right and by use permit depending upon the specific zoning district and one allows them by use permit only.
- All three out-of-state communities researched include behavioral health hospitals under the hospital definition.

## 2. Police Calls for Service Comparison:

- Police Department staff researched calls for service data at three Gilbert hospitals and three behavioral health hospitals located out-of-state.
- Police calls for service appear to be higher at General Medical Hospitals than at Behavioral Health Hospitals. Even adjusting for the larger size of two of Gilbert's hospitals, their average calls for service are higher than those at the behavioral health facilities.
- In the three out-of-state jurisdictions from which data was received, the presence of a behavioral health facility appears to have had no impact on calls for service in the areas surrounding the facilities.

## 3. Zoning Administrator Interpretation:

- The Zoning Administrator recently prepared a formal interpretation in October 2013 at the request of an applicant challenging the location of a behavioral health hospital in the Regional Commercial (RC) zoning district.
- In making the requested determination, the Zoning Administrator considered Arizona State Department of Health Services (AZDHS) definitions and rules, which implicitly recognize that behavioral health facilities and hospitals are regulated and licensed as medical facilities without meaningful distinctions.
- This Zoning Interpretation found that:
  - 1) The proposed behavioral health hospital both meets the definition and is substantially similar to a "Hospital" and "Medical Offices and Clinics" as those uses are defined in the LDC.
  - 2) The proposed behavioral health hospital is a permitted use in the Regional Commercial (RC) zoning district under the Land Development Code.

**Conclusions:**

- 1) Gilbert's Land Development Code's classification of behavioral health facilities as hospitals is consistent with the Zoning Code use classifications of most other communities.
- 2) Behavioral health facilities do not generate a greater number of Police calls for service than general medical hospitals.
- 3) There are no compelling reasons to establish a new use classification for behavioral health hospitals.

HOSPITAL COMPARISON (General vs. Behavioral)

MUNICIPALITY	DEFINITION	Buffer Zone Requirement
Gilbert	A facility licensed by the State of Arizona that provides diagnosis and treatment of patients and inpatient care by a medical staff.	<b>None.</b> Permitted by right in GC, RC and PF/I districts. GO & BP with Conditional Use Permit.
Tempe	Hospitals, Sanitariums, and Nursing Homes- Any <i>building</i> used for one (1) or more of the following uses shall be not less than fifty (50) feet from the lot line of any adjoining property: Hospitals or sanitariums for the treatment of human ailments, nursing or convalescent homes, orphanages, and institutions for the mentally disabled, epileptic, drug or alcoholic patients; homes for the aged, without cooking facilities in individual <i>dwelling</i> units; and related institutions of an educational, religious, or philanthropic nature.	<b>None.</b> AG and MF with Use Permit and special standards or limitations. All commercial districts with Use Permit and special standards or limitations. Allowed in MU-3, MU-4 and MU-Ed with Use Permit and special standards or limitations. Permitted in office/industrial zoning districts with Use Permit and special standards or limitations.
Chandler	Hospital: Unless otherwise specified, the term "hospital" shall include "sanitarium," "preventorium," "clinic," "maternity home" or "rest home" and shall be deemed to mean a place for treatment or other care of human ailments.	<b>None.</b> Permitted in C-1, C-2 and C-3 zoning districts. Permitted with a use permit under Planned Commercial Office (PCO). Must be a minimum of 1,320 feet away from a medical marijuana facility. Chandler does require that behavioral homes be at least 1,200 ft away from another <b>group</b> home.
Glendale	Hospital: A medical facility for the diagnosis and treatment of human patients including overnight housing of patients.	<b>None.</b> A permitted use under the General Office (GO) district only. Permitted with a conditional use permit under the Glendale Centerline Overlay District. Hospitals are regulated by existing zoning laws and are subject to existing setback requirements.
Scottsdale	<i>Hospital</i> shall mean a facility for the general and emergency treatment of human ailments, with bed care and shall include sanitarium and clinic but shall not include convalescent or nursing home.	<b>None.</b> Allowed in Commercial Office (C-O) with a conditional use permit. Allowed in Downtown Medical, Multiple Use, and Regional Use sub districts (DM-2, DMU-2 and DRU-2). Governed by existing setback requirements (100ft).
Phoenix	<i>Hospital:</i> An institution which is licensed by the State of Arizona to provide in-patient and out-patient medical care, diagnosis, treatment or major surgical services for persons suffering from illness, injury or deformity or for the rendering of obstetrical or other professional medical care. A hospital may include such related facilities as laboratories, medical testing services, central service facilities, staff	<b>None.</b> Allowed in C-1 with Use Permit. Allowed in C-2, C-3 and Industrial by-right. Governed by existing setback requirements (25ft)

## HOSPITAL COMPARISON (General vs. Behavioral)

	offices and volunteer community blood centers (non-profit only). The term "hospital" shall not be construed to include the office of a physician or practitioner.	
Tucson	Medical Service – Major: Provides inpatient medical care which may also include outpatient service as an ancillary activity. Typical uses include hospitals, psychiatric hospitals and detoxification centers.	
Prescott	Medical Facilities: Medical facilities include uses providing medical or surgical care to patients and offering overnight care. Examples include Hospitals, Trauma Centers and Medical Centers. Exceptions: Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Assisted Living category	<b>None.</b> Allowed in BG (Business General), BR (Business Regional), and IT (Industrial Transition) districts, which are all allowed by right zoning districts. Governed by existing setback requirements.
Louisville, CO	<i>Hospital</i> means any building or portion thereof used for diagnosis, treatment and care of human ailments; but does not include medical clinics, rest homes, convalescent homes, nursing homes and retirement homes.	<b>None.</b> Hospitals are allowed by right within specific zoning districts. All hospitals, clinics, and medical facilities are governed by existing setback requirements for given zones. (30ft).
Carrollton, TX	Hospital: An institution or place where sick or injured in-patients are given medical or surgical care either at public or private expense.	<b>None.</b> Group homes are subject to buffer requirements from other <b>group</b> homes.
Dublin, OH	HOSPITAL. Any facility in which in-patients are provided diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than 24 hours, or a medical facility operated by a health maintenance organization.	

The comparison of hospital use definitions in Arizona communities indicates that the vast majority of communities (7 of 8) include behavioral health under the definition of a hospital

**DATA COMPARING POLICE CALLS AT GILBERT AREA HOSPITALS AND THREE  
BEHAVIORAL HEALTH HOSPITALS:*****General Medical Hospital***

<b>Hospital</b>	<b>Size</b>	<b>Police calls per month</b>			
	<i>No. Beds</i>	<i>March</i>	<i>April</i>	<i>May</i>	<i>3 mo. Avg.</i>
Mercy Gilbert	212	14	14	17	15
Banner Gateway	177	13	19	23	18.3
Gilbert Hospital	19	3	7	6	5.3

***Behavioral Health Hospital***

<b>Hospital/Location</b>	<b>Size</b>	<b>Average Police calls per month</b>
	<i>No. Beds</i>	<i>14 to 21 mos.</i>
Carrollton Springs/ Texas	45	3
Dublin Springs/ Ohio	72	4
Sycamore Springs/ Indiana	48	5

On average, General Medical Hospitals place more police calls than the listed behavioral health hospitals. These numbers reflect the percentages relative to the number of beds each facility has equipped. Here are the percentages:

**Individual Hospitals:**

Mercy Gilbert – 8.2%

Banner Gateway – 9.2%

Gilbert Hospital – 38%

**Hospital Aggregate:**

Of 408 total beds, a rate of 9.4% calls are placed to the police department.

**Behavioral Hospitals:**

Carrollton Springs, TX – 6.6%

Dublin Springs, OH – 5.5%

Sycamore Springs, IN – 10%

Behavioral Hospital Aggregate: Of 165 total beds, a rate of 7.2% calls are placed to the police department.

## **Summary of Data Collected**

### **Springstone Behavioral Health Facilities**

Carrollton Springs in Carrollton, Texas has been operating as a Springstone facility since January of 2012. It was owned by a different company prior to that. Data reflects only the time period that this facility was operated by Springstone. There were 69 calls for service from January 2012 through approximately October 15, 2013 (approx. 21 months). The calls included investigations (NFI), disturbance conflicts, assisting the fire department, and welfare checks. No data regarding the surrounding area was received. Average of three calls per month to facility. Calls for service within one mile of the facility have remained stable from January 2011 through October 2013 with approximately 100 calls for service per month.

Dublin Springs in Dublin, Ohio opened in August 2012. They have had 61 calls for service to the facility since that time. This is an average of approximately four calls per month. The calls varied in type but included police being called for mental patient issues such as thinking they were being held hostage, or wanting to leave but were not allowed by doctor's orders. Calls also included EMS runs, where PD assists EMS by going along on patient runs. There were seven suicide attempt calls and six calls for patient disturbance. Out of the 61 calls, nine reports were generated. For the district which includes the facility, in the year prior to the facility opening, there were 70.8 calls for service per day and in the period after the facility opened, there were 69.75 calls per day. No increase in calls for service after the facility opened.

Sycamore Springs in Lafayette, Indiana opened in January of 2012. In the 20 months of operation, there have been 97 calls for service to the address, an average of approximately five per month. Calls for service related to medical problems make up 55% of the calls made to the facility. Welfare checks, 911 unknown, hit and run accidents, suicidal subjects and mental problems are other types of calls received from the facility. For the surrounding one-mile area, there were 9,169 calls for service. For that same area, in the period prior to the facility opening (Jan 2010 to Oct 2011), there were 6,911 calls for service. While there was a substantial increase in calls for service (75%) after the facility opened, with only 97 calls to the facility itself, a correlation between the operation of the facility and increased calls for service cannot be made.

In the three jurisdictions from which data was received, the presence of a Springstone behavioral health facility appears to have had no impact on calls for service in the areas surrounding the facilities.

**PLANNER AREA DEVELOPMENT (PAD) FOR APPROXIMATELY 24 ACRES OF REAL PROPERTY GENERALLY LOCATED SOUTH AND EAST OF WADE DRIVE AND VEST AVENUE, CONSISTING OF SINGLE FAMILY DETACHED (SF-D) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT OVERLAY.**

For the following reasons: the development proposal conforms to the intent of the gateway character area in the general plan and can be coordinated with existing and planned development of the surrounding areas, and all required public notice and meetings have been held, the planning commission moves to recommend approval to the town council for Z13-37, a request to amend Ordinance Nos. 1900, 2179, 2195, 2304, 2413, 2425, 2443 and 2473 to amend conditions of development within the Cooley Station Planned Area Development (PAD) for approximately 24 acres of real property generally located south and east of Wade drive and Vest Avenue, consisting of Single Family Detached (SF-D) zoning district with a Planned Area Development (PAD) overlay, subject to the following condition:

- a. The Project, Parcel 1B of Cooley Station PAD shall be developed in conformance with the Town's zoning requirements for the Single-Family Detached (SF-D) zoning district and all development shall comply with the Town of Gilbert Land Development Code and development standards and exhibits to be adopted with the ordinance for this application.

**Z13-36: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 5 ADMINISTRATION, ARTICLE 5.4 USE PERMITS, SECTION 5.404 EXPIRATION; MODIFICATIONS; REVOCATION, SUBSECTION B MODIFICATIONS RELATED TO AUTHORIZING THE ZONING ADMINISTRATOR TO APPROVE MINOR MODIFICATIONS TO CONDITIONAL USE PERMITS FOR WIRELESS COMMUNICATION FACILITIES (WCF).**

For the following reasons: The proposed text amendment will assist in improving service efficiency by allowing a greater number of Wireless Communication Facility modifications to be approved administratively, the amendment will maintain The Town's uncluttered appearance and prevent visual blight, and all required public notice and meetings have been held, the planning commission moves to recommend approval to the Town Council For Z13-36, A Request to amend the Town of Gilbert Land Development Code to allow the Zoning Administrator to administratively approve minor modifications to conditional use permits for wireless communication facilities.

**A motion was made by Commissioner Brigitte Peterson and seconded by Commissioner Kristofer Sippel to approve the agenda as presented.**

**Motion carried 5 – 0**

**PUBLIC HEARING (NON-CONSENT)**

Non-Consent Public Hearing items will be heard at an individual public hearing and will be acted upon by the Commission by a separate motion. During the public hearings anyone wishing to comment in support of or in opposition to a public hearing item may do so. If you wish to comment on a public hearing item you must fill out a public comment form indicating the item number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the Commission.

**Z13-11: BEHAVIORAL HEALTH HOSPITALS: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, DIVISION 6 USE DEFINITIONS; ARTICLE 6.1 USE DEFINITIONS, RELATED TO REVISING THE DEFINITION FOR "HOSPITAL" TO INCLUDE "BEHAVIORAL HEALTH SERVICES".**

Senior planner Mike Milillo stated that Z13 – 11 is a request to amend the Land Development Code (LDC) for behavioral health hospitals so that they can be included within the definition of hospitals within the LDC. The item has been seen on two occasions by the Planning Commission, first in July 2013. At that time there was wide-ranging discussion, however, the Commission did not initiate it. In December 2013 the Planning Commission conducted a second Citizen Review meeting in order to take additional public testimony and discuss it again and the amendment was initiated at that time. Staff has done some extensive research on behavioral health hospitals associated with the proposed text amendment. There were two behavioral health facilities that attempted to locate within the Town of Gilbert last year and depending upon the zoning districts that those facilities would like to go in to they are either permitted by right as health facilities or they are conditionally permitted by a Use Permit. In both of the cases where the facilities were looking to locate the facilities would have been permitted by right because they were in the General Commercial (GC) zoning district and so the only review that those facilities needed to go through was the Design Review Board process which approves the site plan, landscape and the architecture. Town Council asked staff to look into behavioral health facilities and determine if they should have different procedures or use definition for behavioral health hospitals and perhaps some sort of additional regulations that would create buffers or separation distances. Staff was asked to look at a wide range of methods for regulating those types of uses. Staff found 5 main findings based on their research which Planner Milillo referred to:

1. Most cities classify inpatient behavioral health facilities as hospitals. Chandler, Glendale, Phoenix, Scottsdale, Tempe and Tucson classify behavioral health inpatient facilities as hospitals and numerous hospitals incorporate behavioral health care units and services. They fall within the “hospital” use classification for land use and zoning purposes. Of the seven Arizona cities surveyed, only Prescott categorizes this use as “Assisted Living”.
2. These types of hospitals are permitted “by-right” in certain zoning districts and by use permit approval in other districts. As discussed below, Gilbert’s zoning code follows this same process.
3. None of the ten cities surveyed require any separation distances or special buffering from behavioral health facilities to other uses.
4. The Arizona Department of Health Services (AZDHS) Division of Behavioral Health Services defines Inpatient Services as follows: *Inpatient Services*. “A behavioral health service provided in a psychiatric acute hospital (including a psychiatric unit in a general hospital), a residential treatment center for persons under the age of 21, or a sub-acute facility.” Inpatient behavioral health services may be provided in a general hospital. Moreover, AZDHS has recently issued new rules integrating behavioral health licensing into medical facilities licensing, including hospitals.
5. Data comparing police calls for service at general hospitals and behavioral health hospitals show that on average, general medical hospitals place more police calls than the behavioral health hospitals.

Planner Milillo stated that there were certain perceptions about these facilities when they were discussed previously at the DRB and Town Council meetings that there would be greater crime associated with these types of facilities, and the issue of the proximity of these facilities to schools. What staff found in looking at the police call information and the statistics was that the police calls for service really aren’t much different than other types of facilities. Comparing specifically, hospitals two behavioral hospitals the number of police calls for service are greater at hospitals rather than at specialized behavioral health facilities. Based on those 5 findings, what staff is recommending in this text amendment is including very specifically, so as to making it clear, behavioral health hospitals within the hospital definition. Planner Milillo said that the new terminology that they are adding states; “a facility licensed by the state that provides health services including diagnosis and treatment of patients and inpatient care by a medical staff” specifically stating that this does include behavioral health hospitals providing inpatient medical care. This specific definition was actually taken from the Land Use Assessment Analysis that was mentioned previously.

Commissioner Powell said that he did not have any objection to the language but did have concern that once the language is accepted, if it gets accepted in this fashion, then it would be allowed under the use

regulations as it applies to the Community Commercial, Regional Commercial, General Office and the employment district. He said that he believed that they needed to separate out behavioral health facilities. They had the robust conversation with the community in July and he believed that the mothers have a legitimate concern. The timing was bad because of the tragic event that occurred in Connecticut at the time but he did think that they should have some separation and buffers for behavioral health institutions especially if they have psychopathic patients and drug addiction behavior. Commissioner Powell said that what he would like to have the Town consider is if they want to go forward with the language they need to put limitations on how the uses are permitted. Going forward and allowing it to be permitted in the four areas that it is already permitted in they should stipulate a limitation for separation and for buffering.

Commissioner Peterson asked staff if based on what Commissioner Powell had just stated, to be able to change the setbacks of behavioral health hospitals wouldn't they have to be looked at completely differently and wouldn't that be a totally different amendment that they would be looking at. If they are allowed they are allowed with whatever setbacks are allowed in GC, RC and the like. If they were going to change the requirements for them they would specifically need to change the requirements for behavioral health hospitals and not move forward with this amendment. Commissioner Peterson asked staff if she understood that correctly.

Planner Milillo said that was correct. They would have to somehow separate out the behavior help facilities so that there was either a limitation in the use tables that would require some separation distance or buffers around them and perhaps add some site development regulations that would specify what those distances for buffering would be.

Commissioner Powell said that when they look at the use tables under the four categories that they have alluded to, it already shows some separation. It does not have to be enormously complicated to accomplish the goal that he suggested. They simply make it a line item under the use regulations and under the line item they simply stipulate the limitation. The limitation defines exactly what the separation or the buffering might be. It is just that simple.

Commissioner Cavenee said that what he understood them to be saying is that they keep the definition for hospitals to include behavioral health but in the RC requirements they specify a unique setback for behavioral health.

Commissioner Powell said that if you look under the PF I or the employment district it specifically already separates out hospital and then says permit. Then there is another line item that says urgent care facility and then says permit. It is all included under healthcare facilities. So they simply establish another line item that says behavioral health facilities and put L which means that it is permitted subject to a limitation. That way the facilities are allowed to be built but they allow them to be appropriately built so that it protects the interests of the community especially children.

Commissioner Cavenee said that means they would need to come in for a Conditional Use Permit for each case and at that point the additional regulations would be imposed.

Commissioner Powell said that he believed the limitation could be written so that it has a minimum separation distance. That's what limitations are. At that particular time it is easily defined because it is already set.

Town Attorney Smiley commented that the way that the LDC is constructed each of those line items in the table, hospital, urgent care; medical offices all have separate definitions. If they were to do that it would not be a simple matter of taking the definition that they are proposing and separating it out. The behavioral health facility would have to have a separate definition. If that is the way the Commission wants to go they would recommend denial on this amendment and go forward from there.

Commissioner Powell said that he appreciated the clarification and with that information he would not be in favor of the current language.

Planner Milillo displayed the Commercial Use Table so that the Commission could see what the Town Attorney was referring to. GC and RC is where they are permitted by right.

Vice Chairman Oehler referred to the following information in the staff report and asked for clarification on the meaning: “this use includes behavioral health hospitals providing in-patient medical care for alcoholic, narcotic, or psychopathic patients.”

Attorney Smiley said that she would advise against that language and instead of that, because there are other addictions that might be treated at a behavioral health facility, she would take out the “alcoholic, narcotic or psychopathic patients” and put in “treatment of addiction and mental illnesses.” Also, the way this is worded, they may have patients who are alcoholic, narcotic, or psychopathic patients who are being treated for other conditions in a general hospital. This is meant to address specific facilities for treatment of addictions and mental illnesses.

Commissioner Powell noted that staff had mentioned the number of police responses and one of the reasons that he suggested what he had was that all it takes is one bad response. Even though the numbers may be less in relation to the behavior health hospitals it is a nice comparison but in reality if they were to have a significant event then those numbers would be irrelevant. Commissioner Powell said that he would rather err on the side of caution and make sure that they do everything to protect the children, families, schools, parks and whatever else and people who may be very vulnerable if in case there was an incident.

Commissioner Peterson said that the issue that she has with that is that they can have the same kind of incident on any given day in any one of the three hospitals that we have currently. There have been incidents in hospitals in the East Valley over time as it can happen anyplace. The number of calls for behavioral health hospitals are less than they are for typical hospitals. There is more potential to have issues in larger facilities with more people coming and going then in these smaller facilities that are probably more security conscious because of the types of things that they are dealing with. They are already working harder to make sure that things like that don't happen.

Commissioner Powell said that he concurred with Commissioner Peterson and that was the point he was trying to make. He was not against allowing behavioral hospitals to be built and is in favor of allowing them to be built; he simply wanted to add one more precaution. Because they are behavioral health facilities and do have an established type of client he was simply suggesting that they add more caution. That caution would be a separation or buffer. They can still be built and be built in all those areas they just need to take one more step in being careful.

Commissioner Peterson asked the Town Attorney if they became a protected class in any way.

Town Attorney Smiley said that as far as a protected class it was not the individuals here that they were talking about but the facility and the land use. She said she believed that that was mixing apples and oranges because they were talking about a land use.

Planner Milillo commented that it was not residential and so was not a housing issue.

Vice Chairman Oehler invited anyone from the public forward who wish to speak on the case.

Dena Greenwalt, Gilbert, AZ came forward in favor of the item. Ms. Greenwalt said that she agreed with Commissioner Peterson in that if you look at the folks that come into a traditional medical hospital you have inmates who come into those hospitals as well as other people with drug issues and people who've been in accidents while under the influence coming in and out of those hospitals. She said that in her opinion you have a higher risk there then you would at a behavioral health Center. She said that she did not think that those folks should be stigmatized by asking for additional buffers and if they fit into the hospital definition they should be able to go in just like any other hospital.

Commissioner Cavenee asked staff what type of separation or restriction was required for hospitals.

Planner Milillo said that they do not have any separation distances and what they basically do is follow the site development standards such as setbacks and permanent landscaping setbacks of the base zoning district. In certain districts they do require conditional use permits.

Commissioner Cavenee said that he appreciated Commissioner Powell's comments and emphasized with it and wished that there was a way to implement it without changing all the work that has been done to get where they are currently. He said that at this point he might be willing to move forward with it with the change in the language regarding the psychopathic type of patient.

Vice Chairman Oehler closed the public hearing.

Commissioner Peterson said that through the process of seeing the issue several times they have discussed the possibility of a Conditional Use Permit or not having a Conditional Use Permit and whether they needed to change the definition and specifically add behavioral hospitals into the definition or not and what they were seeing was what had all washed out to this point. She said that she was comfortable with the way that staff has presented it currently and liked the change to the wording that was made by Attorney Smiley. Commissioner Peterson said that she was prepared to move it forward.

Commissioner Powell said that he could not forget the huge outcry of the mothers in the neighborhood of Baseline and Greenfield who were absolutely incensed by the fact that a behavioral health hospital was going to be built right next door to Pioneer Elementary School. Considering the cry from the community to be careful where those facilities are allowed, he believed that they could reach an appropriate compromise. He said that they were not attempting to try to restrict or inhibit the hospital and the ability of those to receive help. What they are trying to do is prevent the same situation that happened in July. He reminded the Commission that the entire Council Chambers were packed and that they had mothers from everywhere there who were very concerned about their children. It may have been reactionary but what they needed to make sure of was that if they have a behavioral health institution that specializes in substance abuse and mental health issues that just as some of those parents came to them and asked them to reconsider and they made every effort and in fact the Town Council made every effort to acquiesce and pull the case so that those parents could have their wishes. That particular behavioral health owner went somewhere else and everyone was happy. Commissioner Powell said that if they allow the amendment to pass as written currently those behavioral health hospitals can go anywhere including right where those parents did not want it. If they are to consider the best interest of their community they need to make sure that if they approve the amendment as it is currently they are allowing exactly what those parents were asking them not to allow. He said that he did not believe that there was any harm in going back and redrafting the language and considering a separation. They still get the hospitals, they still get the separation and everyone benefits. Commissioner Powell said that as it is written currently he was not in favor and that they could make some adjustments that would actually improve it.

Commissioner Sippel commented that the Dobson branch of Banner Hospital in Mesa had at one point a behavioral health wing to it but it was within the hospital property. He asked if Mercy Gilbert or another hospital could do that now.

Planner Milillo responded that they could. He said that it was fairly common for hospitals to have a behavioral health unit. Some of them farm it out to other facilities and others bring in contract behavioral health employees into their facilities. Many facilities do incorporate behavioral health units within their hospitals.

Vice Chairman Oehler asked Commissioner Powell what his proposal would be for the buffer.

Commissioner Powell responded that buffers can come in lots of forms. He noted that for sober homes they had a separation of 1320 feet from another sober home. He asked why they had separation distances for sober homes and said that the reason was that they did not want to bring in too many in one tight compacted area and that all he was suggesting was that they have a separation distance. It does not have to be from everything but could be simply from schools and parks and things like that. If they did it for sober homes the logic applies here as well.

Vice Chairman Oehler said with sober homes they were looking more at changing the clustering and here they were not looking at a use from a use. In a separation they were looking more to use to use separation not a clinic to clinic separation but a use other than the behavioral health to that.

Commissioner Powell said that they do that in all of their zoning. If they have residential up against commercial they have buffering if they have residential up against industrial they have buffering. He said that all he was saying was that they apply the same logic and the same principles and allow a separation distance so that it increases the safety factor. It would bring a great deal of peace of mind to parents not to have a behavioral health hospital right up next to the elementary school that their child goes to.

Vice Chairman Oehler said that he did not know if a separation would make a difference and that he was still on the fence.

Commissioner Powell suggested that instead of coming up with a permanent solution currently they could continue the case and if they need to have more discussion to come up with something a little more reasonable they could do that.

Commissioner Cavenee said that he did not see that what Commissioner Powell was saying would hurt. At this point they do not have an applicant sitting before them saying that he was within 500 feet and they want 525. They would not be hurting anyone at this juncture by trying to establish some boundaries. He said that he did not think that if they set a reasonable separation that this will have a huge impact on behavioral health centers. He said that if they were trying to just move the measure forward and that was why they were voting yes he was a little concerned because they certainly have a valid concern on the table.

Commissioner Peterson pointed out that the Planning Commission did not see the behavioral health hospital.

Commissioner Cavenee said that what he was saying was that they were setting guidelines and boundaries for these things and he could not see what harm it does to establish a separation from schools and parks and perhaps day care centers. He said that he did not think they should worry about residential because then you start hurting hospitals that have behavioral health wings. Commissioner Cavenee said he would be willing to jump to that point if they wanted to, as a team.

Commissioner Peterson said that the second location that the behavioral health hospital tried to go into was near residential and the neighbors in that area also did not want it located near them. If they start creating separation buffers where do they do they start and where do they stop. She said that she was not sure, especially based on the two cases that have tried to come into Gilbert in two separate locations and got the same argument in both locations. One was up against a school and one was up against residential.

Commissioner Powell said that was precisely why they needed to have more discussion.

Commissioner Sippel said that he would be open to more discussion as well.

Commissioner Peterson said that more discussion never hurts and that she was not opposed to discussion. She said that she was trying to determine what kind of direction that they were going to give to staff. The amendment that they have in front of them currently was an amendment to the LDC for a use definition specifically so she believed they were talking a completely different amendment. Commissioner Peterson asked if they should continue this amendment and ask staff to come back with more information as to what it would entail to do the other thing because what Commissioner Powell was suggesting was not part of the current amendment.

Planner Milillo said that what he would suggest at this juncture would be that staff do more research and see how they might be able to accommodate this. He said that what he was struggling with is if these facilities are part of hospitals how do they separate them out in order to then create distance separations but they could take a look at it and then bring it back in a study session with a couple of different options and

then narrow it down so that it is advertised correctly when they actually have the amendment before the Planning Commission for action.

Attorney Smiley said that when they take it back to staff for consideration would the Commission be interested in a proposal that included perhaps a Conditional Use Permit and if so would a Conditional Use Permit be required for all hospitals. Most of the hospitals would have some sort of mental health facilities within them. She commented that they could not really discuss that proposal but if that is the direction that they were going they would probably need to re-advertise it so it would more than likely be May before it came back before them.

Commissioner Peterson said that she would be opposed to a Conditional Use Permit for all hospitals. Currently Gilbert has three hospitals and people may want to come in to develop another one at some point. As Commissioner Sippel stated, Banner did have a behavioral health unit for a long time.

Commissioner Cavenee said that he agreed with that and that what he needed was a little bit more of an understanding of the options. He said that he believed they also needed more research on the type of separation that they were talking about.

Commissioner Powell said that he would suggest that they deny the proposal the way that it is written currently and then invite the Town to have a study session such as staff suggested and then draft new language.

Commissioner Cavenee said that he just wanted to know where they were headed at the next meeting.

Commissioner Peterson said that if they make a recommendation on denial on what is proposed currently they are making that recommendation to the Town Council and then the Council has the purview to decide however they want on this specific amendment.

Commissioner Powell said that in that case they should just continue it so they can improve the language.

Commissioner Peterson said that they have some new Commissioners and that they have been talking about the subject for a very long time. They did not have either one of the cases come before them but the cases did go to the Design Review Board and that she knew a lot of parents went to the Town Council in between and at meetings. The Planning Commission did not have any time to discuss this with the public unless they came to the study session to talk about it. There were some very impassioned people who came to discuss behavior health and when they were discussing the recovery residences at the same time they got kind of mixed together. Commissioner Peterson said that she wanted to point out that they do have new Commissioners and that this has been going on for a long time and some of this discussion they have already had but they are now with the new group of people and so they are having it all over again and in a sense going backwards to where they were 6 or 7 months ago and next month they may have two new Commissioners.

Commissioner Powell said that was fine but he did not see any sense of urgency.

A motion was made by Commissioner Kyle Powell and seconded by Commissioner David Cavenee to table Z13 – 11 for further discussion.

Vice Chairman Oehler asked if they table the case will they be seeing it in April.

Town Attorney Smiley said that they would then need to amend the motion to table it and bring it back to a study session in April or continue it to a study session in April.

**A motion was made by Commissioner Kyle Powell and seconded by Commissioner David Cavenee to table Z13-11 and bring it back as a study session in April, 2014.**

**Motion carried 5 – 0**