

1. Agenda

Documents: [AGENDA JUNE 11, 2012.PDF](#)

2. Packet

Documents: [PACKET JUNE 11, 2012.PDF](#)

# **TOWN OF CHINO VALLEY BOARD OF ADJUSTMENT**

## **Meeting Agenda**

**Chino Valley South Campus Building  
202 N. State Route 89  
Chino Valley, AZ 86323  
Monday June 11, 2012  
6:00 pm**

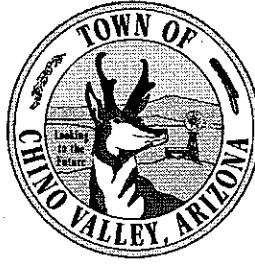
- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. APPROVAL OF MINUTES**
  - a. May 21, 2012
- 5. ACTION ITEM**
  - a. Consideration, discussion, and possible action regarding an appeal of the Zoning Administrator's (ZA) decision relating to the Jehovah's Witness church service that occurred at the Windmill House on April 5, 2012. The ZA concluded that the church service was not in violation of the Windmill House Conditional Use Permit (Ordinance No. 11-754). The Windmill House is located at 1460 W. Road 4 North.
- 6. PUBLIC COMMENTS:**
  - a. Members of the public may address the Board of Adjustment on items not on the printed agenda. State your name for the record and please observe the time limit of 3 minutes. Be advised that the Board can not/will not respond to your comments at this time.
- 7. ADJOURN**

A COPY OF THE AGENDA BACKGROUND MATERIAL PROVIDED TO THE BOARD OF ADJUSTMENT IS AVAILABLE FOR PUBLIC INSPECTION AT THE MARION LASSA/CHINO VALLEY LIBRARY, 1020 W. PALOMINO ROAD, CHINO VALLEY, ARIZONA.

FURTHER DETAILS MAY BE OBTAINED BY CONTACTING THE DEVELOPMENT SERVICES DEPARTMENT AT 1982 N. VOSS DRIVE, CHINO VALLEY, ARIZONA (928) 636-4427.

THE TOWN ENDEAVORS TO MAKE ALL PUBLIC MEETINGS ACCESSIBLE TO PERSONS WITH DISABILITIES. WITH 72 HOURS ADVANCE NOTICE, SPECIAL ASSISTANCE CAN ALSO BE PROVIDED FOR SIGHT AND/OR HEARING IMPAIRED PERSONS AT PUBLIC MEETINGS. PLEASE CALL 636-2646 (VOICE), 636-1787 (TDD) OR USE THE AZ STATEWIDE RELAY SERVICE AT 1-800-367-8939 (TDD) TO REQUEST AN ACCOMMODATION TO PARTICIPATE IN THIS MEETING.

DEVELOPMENT SERVICES DEPARTMENT  
1982 VOSS DRIVE  
PO Box 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-2144

BOARD OF ADJUSTMENTS  
STAFF REPORT

TOWN OF CHINO VALLEY, ARIZONA  
JUNE 11, 2012

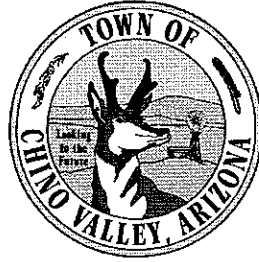
LEGAL AD

**NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Board of Adjustments at the Chino Valley Council Chambers—South Campus, located at 202 N. State Route 89, Chino Valley, Arizona 86323, at 6:00 p.m., on Monday, June 11, 2012. This hearing will be conducted for consideration, discussion, and possible action regarding an appeal of the Zoning Administrator's (ZA) decision relating to the Jehovah's Witnesses church service that occurred at the Windmill House on April 5, 2012. The ZA concluded that the church service was not in violation of the Windmill House Conditional Use Permit (Ordinance No. 11-754). The Windmill House is located at 1460 W. Road 4 North (Exhibit A).**

- A. PUBLIC NOTICE PROCESS: Was done in accordance with A.R.S. 9-462.06, F
1. A notice of the hearing was submitted to the following newspapers: Prescott Courier and Chino Review
  2. A notice of hearing was posted in conspicuous places close to the property affected
- B. SPECIFIC REQUEST OF THE BOARD OF ADJUSTMENTS (B of A): Hear and decide the appeal of a decision made by the Zoning Administrator (ZA).
- The ZA determined that an event that occurred at the Windmill House, the Jehovah Witness church service, was not in violation of the Conditional Use Permit (CUP) because the event was a "private" event and not a "public" event. The event occurred at the Windmill House on April 5, 2012. There is one (1) complainant that does not agree with the ZA determination and is appealing the decision to the B of A. The following is a summary of events leading up to the June 11, 2012, B of A public hearing.
- C. SUMMARY AND TIMELINE OF CORRESPONDENCES:
1. November 8, 2011: The Town Council approved Ordinance No. 11-754, approving the issuance of a Conditional Use Permit to allow the Windmill House to continue holding events such as wedding and other private events (Exhibit B).
  2. March 27, 2012: The Town of Chino Valley's Development Services Department received two complaints regarding an event that was to occur on April 5, 2012 at the Windmill House. The complainants stated that the scheduled event, the "Jehovah Witnesses church service", was in violation of Ordinance 11-754 because members of the church went door-to-door inviting the public to attend. The plaintiffs believe that the act of going door-to-door makes it a "public event".



DEVELOPMENT SERVICES DEPARTMENT  
1982 VOSS DRIVE  
PO Box 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-2144

Ordinance II-754 specifies that events held at the Windmill House shall be "Weddings and other private events" (Exhibit C).

3. April 30, 2012: The Town of Chino Valley's Zoning Administrator (ZA) wrote response letters to the complainants stating, "The ZA has concluded that the event was not a public event. A significant reason is that this "one-time" event occurred for a private organization, "Jehovah's Witnesses", which is a non-profit 503 religious organization. In addition, a common practice that occurs in this particular religious organization is to go door-to-door and talk with people individually about the Witnesses' beliefs. Based on the flyer provided by the complainants, some of the more passionate Witnesses walked around the community sharing their beliefs and handing out the flyer to individuals at their homes, inviting neighbors to attend the one-time event. Parts of the Jehovah's Witnesses religious beliefs are to share their message and invite individuals to attend their church. The ZA does not believe the act of a religious organization handing out flyers within a neighborhood and inviting neighbors to attend a non-recurring event makes it a "public event".

Therefore, the Jehovah's Witnesses church service that occurred at the Windmill House on April 5, 2012, is not in violation of Ordinance II-754 (Exhibit D).

4. May 3, 2012: The Development Services Department received one letter appealing the decision made by the ZA regarding the Jehovah Witnesses church service (Exhibit E).

D. **ANALYSIS:** The CUP (Ordinance No. II-754) clearly makes provisions for both public and private events and identifies "private events" as weddings and private events, and identifies "public events" as buffet/open dinners and pumpkin festivals.

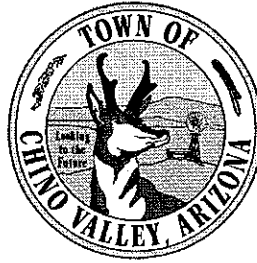
That is the only guidance provided by the CUP for determining what a public event is and what a private event is. This lack of information leaves a lot of gray area and makes the decision of whether an event is public or private not easy to define.

There are many factors that need to be considered when determining if an event is public or private. The complaining party believes that simply the act of advertising an event makes it public. However, town staff does not believe that because an event is advertised it is automatically public.

The CUP provides other enforcement mechanisms that are specifically there to reduce impact on the surrounding neighbors such as dust mitigation, no outdoor amplification, and adherence to the noise ordinance. In addition, in the event of non-compliance with these requirements, Council may alter, amend, or revoke the CUP.



DEVELOPMENT SERVICES DEPARTMENT  
1982 VOSS DRIVE  
PO Box 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-2144

In addition, back in November of 2011, when the Commission and Council approved the CUP (Ordinance No. 11-754) they approved it with the following findings:

1. That the CUP for the existing uses will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and
2. That the existing uses are reasonably compatible with the uses permitted in the surrounding area.

The primary issue regarding the CUP is not to regulate whether an event is public or private but to assure that events that occur at the Windmill House do not result in a negative impact on the neighborhood. Whether an event is public or private is not a determining factor of what kind of impact the event has on the neighborhood. It is possible that a private event could have more impact than a public event.

It is the Zoning Administrator's view that when an event occurs at the Windmill House the primary consideration should be, did the event comply with the Findings and Conditions of the CUP. The secondary concern should be whether an event was public or private.

- E. **BOARD OF ADJUSTMENTS OPTIONS:** Per A.R.S. 9-462-06, G, 3 - Reverse or affirm, wholly or partly, or modify the order, requirement, or decision of the zoning administrator appealed from, and make such order, requirement, decision, or determination as necessary.
- F. **MOTION EXAMPLES:**
1. I move to grant the appeal, which overturns the action of the Zoning Administrator.
  2. I move to deny the appeal, which upholds the action of the Zoning Administrator.
  3. I move to continue this agenda item to a specific date.
  4. Other?

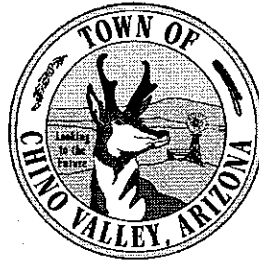
**Attachments:**

- Exhibit "A" Location Map
- Exhibit "B" Ordinance No. 11-754
- Exhibit "C" Complaints filed
- Exhibit "D" Zoning Administrators response to complaints
- Exhibit "E" Appeal letter





DEVELOPMENT SERVICES DEPARTMENT  
1982 VOSS DRIVE  
PO Box 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-2144

## **EXHIBIT B**

### **ORDINANCE NO. 11-754**

**AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, APPROVING THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR AN APPROXIMATELY 28-ACRE PORTION OF ASSESSOR'S PARCEL NUMBER 306-05-030V TO ALLOW THE CONTINUED OPERATION OF THE WINDMILL HOUSE EVENTS FACILITY AND ITS PRESENT USES IN THE "AR-5" AGRICULTURAL RESIDENTIAL 5 ACRE MINIMUM**

WHEREAS, at a public Hearing before the Town Council on November 8, 2011, the Council adopted Ordinance No. 11-752 which caused the zoning for the subject 28-acre portion of APN 306-05-030V to revert from "CL" Commercial Light zoning to "AR-5" Agricultural Residential 5 acre minimum; and

WHEREAS, the property owner, La Vacara Trust/Joe Cordovana, Trustee, has filed an application with the Town of Chino Valley ("Town") requesting a Conditional Use Permit for the real property legally described on Exhibit "A" as attached to this Ordinance; and

WHEREAS, the requested Conditional Use Permit was noticed in conformance with the applicable State and Local Statutes and Local Ordinance; and  
WHEREAS, a "neighborhood meeting" was held in conformance with the requirement set forth in the Town's Unified Development Ordinance ("UDO"); and

WHEREAS, the Planning and Zoning Commission ("Commission") conducted a Public Hearing on September 6, 2011, during which testimony was presented by Town staff, the property owner's agent, and members of the general public; and

WHEREAS, subsequent to the Public Hearing and discussion, the Commission elected by a 6-0 vote (Commissioner Sparzynski absent) to forward the application to the Town Council with the recommendation for approval with certain Findings and Conditions; and

WHEREAS, at their regular meeting of November 8, 2011, the Town Council confirmed the recommendation of the Commission by voting to adopt this Ordinance and thereby approve the requested Conditional Use Permit with the Findings and Conditions cited in Section 1 of this Ordinance.



DEVELOPMENT SERVICES DEPARTMENT  
1982 VOSS DRIVE  
PO Box 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-2144

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA:**

Section 1. That the issuance of a Conditional Use Permit is hereby issued for real property legally described on Exhibit "A" located at 1460 W. Road 4 North with the following Findings and Conditions:

FINDINGS - Required by Section 1.9.3 of the UDO:

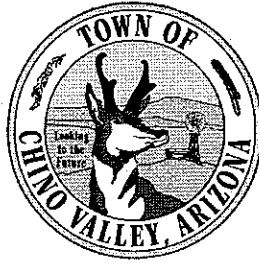
1. That the Conditional Use Permit for the existing uses will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare: and
2. That the existing uses are reasonably compatible with uses permitted in the surrounding area.

ZONING CONDITIONS:

1. Applicant agrees that the approval of this Conditional Use confers no entitlements or rights to the owner or applicant other than those that are vested as a Conditional Use in the AR-5 Zoning District.
2. That the Property Owner/Applicant agrees to comply with the codified procedures set forth in the Town of Chino Valley's Unified Development Ordinance.
3. That a dust mitigation plan shall be established for all special events that demand parking requirements beyond the paved parking areas. Such special events shall not occur without first submitting a dust mitigation plan to the Development Services Department for review and approval prior to the start of said events.
4. That the Conditional Use Permit (CUP) is granted for a period of 15 years. However, in the event of non-compliance with any of the stated conditions in this Ordinance then the Owner of the property and the party then utilizing the property (occupant) shall be subject to sanctions and enforcement under the UDO. In addition, the Zoning Administrator (ZA) shall request a hearing before the Planning Commission in the event there are repeated material violations, a material violation which is not corrected promptly after notice to the Owner, or if the material violation(s) is/are such that they are not able to be promptly cured. In event of referral, the Commission shall hear the matter and may recommend no action be taken or that the CUP be altered, amended or revoked. The Town Council shall thereafter determine whether to take action including whether to alter, amend or revoke the CUP.
5. That the Conditional Use Permit shall limit the subject property to the following land uses:
  - a. Weddings and other private events
    - i. See "Recreational Facilities" definition in the UDO
    - ii. Use of the one existing on-site guest casita/ cottage (no others to be permitted)



DEVELOPMENT SERVICES DEPARTMENT  
1982 VOSS DRIVE  
PO Box 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-2144

- b. Buffet/open dinners may be served a maximum of two nights per week (in a seven day period)
  - c. Catering services
  - d. Pumpkin festival
  - e. Indoor & outdoor sales of nursery stock and a greenhouse for indoor plants
6. That events with amplification equipment shall be limited to an indoor use only.
  7. That there shall be no loud, excessive or unusual noise associated with the uses on the property. Noise shall be considered loud, excessive or unusual if it does not comply with Section 131.02 "Prohibition of Loud or Unusual Noise" in the Town Code.

**ENGINEERING CONDITIONS:**

The dedication of right-of-way consistent with section 4.23 and 4.28 of the UDO shall occur along the full frontage of Road 4 North.

Section 2. Should the use approved herein not be established as proposed within one (1) year, the Conditional Use Permit approval shall become null and void.

Section 3. This Ordinance repeals any prior enactment by the Town, which is inconsistent herewith.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.



# EXHIBIT C

COMPLAINT # \_\_\_\_\_

Date File Closed \_\_\_\_\_

## TOWN OF CHINO VALLEY COMPLAINT FORM

Received By

M. Brasher

Date

3/27/12

Complaint By

Name

Michael Edmonds

Street Address

1575 West Road 4 North

Mailing Address

Chino Valley, AZ 86323

Telephone

928.636.1312 / 508.397.0415

Parcel Number

306-13-004P

Signature

M. Edmonds

Complaint Against

Name

Windmill House

Street Address

1460 West Road 4 North

Mailing Address

P.O. Box 3683, Chino Valley, AZ 86323

Telephone

928.636.1700

Parcel Number

306-05030V

Complaint Description

The Windmill House is conducting business that is prohibited under the approved conditions of Conditional Use Permit - ORD 11-754. A Jehovah's Witness Group has rented the Windmill Facility on April 5, 2012 during which they are advertising a public gathering. One of the enumerated uses of said permit is for "Private" events.

By advertising to the public and going door to door inviting the public to attend removes this use from a private event to public gathering.

I respectfully request the Town investigate this matter and enforce the conditions of ORD-11-754.

Respectfully submitted.

Referred To \_\_\_\_\_

Date \_\_\_\_\_

**RECEIVED**  
MAR 27 2012

BY:.....

RECEIVED  
MAR 27 2012

COMPLAINT # \_\_\_\_\_

Date File Closed \_\_\_\_\_

**TOWN OF CHINO VALLEY  
COMPLAINT FORM**

BY: \_\_\_\_\_

Received By David Nicoletta Date 3/27/12

Complaint By	Name	Ronald Maines
	Street Address	1530 W. Road 4 N., Chino Valley, AZ 86323
	Mailing Address	P.O. Box 3087, Chino Valley, AZ 86323
	Telephone	928-636-0836
	Parcel Number	306-05-022
	Signature	_____

Complaint Against	Name	Windmill House
	Street Address	1460 W Road 4 N., Chino Valley, AZ 86323
	Mailing Address	P.O. Box 3683, Chino Valley, AZ 86323
	Telephone	928-636-1700
	Parcel Number	306-05030V

Complaint Description \_\_\_\_\_

The Windmill House is hosting "Church Services" (see the Windmill House web site) by the Jehovah's Witnesses on April 5, 2012. Members of the church have been going door to door and inviting the public to attend. This makes what would have been a private event a public event in violation of the Windmill House's Conditional Use Permit, ORD 11-754 which states Weddings and other Private Events are permitted. Every community in the area has a Jehovah's Witness church which also indicates the intent to make the event public by inviting the public at large to come to the Windmill House. I request the Town investigate and take appropriate action in accordance with ORD 11-754.

*See attached Flyer*

Referred To \_\_\_\_\_ Date \_\_\_\_\_

Jesus is now reigning as an exalted King. But what does this mean for you?

Many believe that Jesus died for them. Yet, how can one man's death almost 2,000 years ago mean life for others today?

You are cordially invited to listen to the Scriptural answers to these questions. This information will be presented when Jehovah's Witnesses gather to commemorate Jesus' death on **Thursday, April 5.**

This special event will be held at the time and place shown below.

**Thursday, April 5, 2012**

**8:00 pm**

**Windmill House**

**1460 W. Road 4 North**

**Chino Valley, AZ.**

The weekend following the commemoration of Jesus' death, Jehovah's Witnesses will also present an intriguing Bible-based discourse entitled "Is It Later Than You Think?" This talk will be one of the highlights of a worldwide effort to reach out to all those who love Jesus. You are invited to attend.

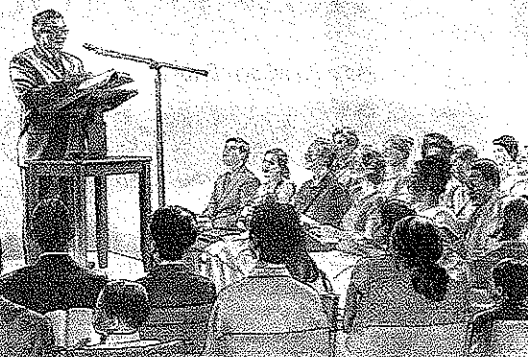
**Sunday, April 8, 2012**

**2:00 pm**

**Kingdom Hall of Jehovah's Witnesses**

**3220 N State Route 89**

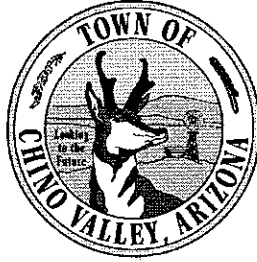
**Chino Valley, AZ.**



[www.watchtower.org](http://www.watchtower.org)

# EXHIBIT D

DEVELOPMENT SERVICES DEPARTMENT  
1982 N VOSS DRIVE  
PO BOX 406  
CHINO VALLEY, AZ 86323



TOWN HALL (928) 636-2646  
DEVELOPMENT SERVICES (928) 636-4427  
FAX (928) 636-6937

April 30, 2012

Ronald Maines  
1530 W. Road 4 North  
Chino Valley AZ 86323

RE: Your complaint involving the Jehovah's Witnesses church service that occurred at the Windmill House on April 5, 2012

Dear Mr. Maines,

On March 27, 2012, the Town of Chino Valley's Development Services Department received your complaint regarding a planned "Church Service" event at the Windmill House. The complaint stated that the scheduled event is in violation of Ordinance 11-754 because members of the church went door-to-door inviting the public to attend. You believe that the act of going door-to-door makes it a "public event". Ordinance 11-754 specifies that events held at the Windmill House shall be "private events".

After careful review and consideration, the Town of Chino Valley's Zoning Administrator (ZA) has concluded that the event was not a public event. A significant reason is that this "one-time" event occurred for a private organization, "Jehovah's Witnesses", which is a non-profit 503 religious organization. In addition, a common practice that occurs in this particular religious organization is to go door-to-door and talk with people individually about the Witnesses' beliefs. Based on the flyer you provided with your complaint, some of the more passionate Witnesses walked around the community sharing their beliefs and handing out the flyer to individuals at their homes, inviting neighbors to attend the one-time event. Part of the Jehovah's Witnesses religious beliefs are to share their message and invite individuals to attend their church. The ZA does not believe the act of a religious organization handing out flyers within a neighborhood and inviting neighbors to attend a non-recurring event makes it a "public event".

Therefore, the Jehovah's Witnesses church service that occurred at the Windmill House on April 5, 2012, is not in violation of Ordinance 11-754.

Finally, town staff appreciates your willingness to assure that the activities conducted on the property comply with local Codes and Ordinances and if you need any assistance in the future please call or email.

Thank you,

David Nicolella  
Zoning Administrator  
Phone: (928) 636-4427  
Fax: (928) 636-6937  
Email: dnicolella@chinoaz.net

**EXHIBIT E**

May 3, 2012

**RECEIVED**  
MAY 07 2012

BY:.....

Chino Valley  
Development Services Department  
1982 N Voss Drive  
Chino Valley, AZ 86323

Attn: David Nicolella  
Associate Planner

Dear Mr. Nicolella,

I wish to appeal your decision on the complaint I filed against the Windmill House for violation of Ordinance 11-754. The members of the Jehovah's Witness church were clearly inviting the general Public to attend their church services by going door to door and handing out flyers with the Windmill House information on it. This event was not a Wedding or other Private event in accordance with the Conditional Use Permit.

I request that this issue be brought before the Board of Adjustment that will take place on May 21, 2012.

Sincerely,



Ronald Maines  
P.O. Box 3087  
Chino Valley, AZ 86323  
928-636-0836  
[ronmar@cableone.net](mailto:ronmar@cableone.net)