

1. Agenda

Documents: [AGENDA AUGUST 07.PDF](#)

2. Packet

Documents: [PACKET AUGUST 07.PDF](#)



NOTICE OF THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION

**August 7, 2012
6:00 P.M.**

Pursuant to ARS 38-431-02, notice is hereby given to the members of the Chino Valley Planning and Zoning Commission and the general public that the Chino Valley Planning and Zoning Commission will hold a regular meeting open to the public on Tuesday, DATE 2011, at 6:00 p.m. in the new Chino Valley South Campus building, located at 202 N. State Route 89, Chino Valley, Arizona 86323.

The Agenda for the meeting is as follows:

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGIANCE**
- 4. APPROVAL OF MINUTES**
 - 4A. July 3, 2012**
- 5. STAFF REPORT**
- 6. PUBLIC HEARING**

6A. ZC-12-001: For consideration, discussion and possible recommendation to the Town Council regarding a requested zone change from Commercial Light (CL) to Commercial Heavy (CH). The property is located on the east side of Durham Drive, in Chino Valley, Arizona and consists of approximately 2 acres, and is further described as Assessor's Parcel Number 306-04-047C. Applicants/Owners: Keith Bunker.

6B. For consideration, discussion, and possible recommendation to the Town Council regarding the violation, sanctions, and enforcement of the Conditional Use Permit (CUP) for the Windmill House. The Planning and Zoning Commission ("Commission") Public Hearing is requested because the Zoning Administrator (ZA) determined that an event that occurred at the Windmill House on May 19, 2012, the "Springfest" event, was in violation of the CUP approved with Ordinance No. 11-754. The Windmill House is located at 1460 W. Road 4 North and the CUP was approved on November 8, 2011, with Ordinance No. 11-754, and is described as APN: 306-05-030W, and a portion of 306-05-030X.



7. PUBLIC COMMENTS

8. ADJOURN

A copy of the agenda and background material provided to the Commissioners 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 Development Services Department at 1982 Voss, 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.



NOTICE OF THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION

**August 7, 2012
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7. PUBLIC COMMENTS

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TOWN OF CHINO VALLEY
PLANNING AND ZONING COMMISSION
Regular Meeting Minutes
Chino Valley South Campus
202 N. State Route 89
July 3, 2012
6:00 p.m.

1. CALL TO ORDER

2. ROLL CALL

Meeting was called to order at 6:00 p.m.

Members Present: Phil Rice, Chairperson
Florence Sloan, Commissioner
Charles Merritt, Commissioner
Gwen Rowitsch, Commissioner
Michael Edmonds, Commissioner
Members Absent: Garland Miner, Vice Chairperson
Jack Owen, Commissioner
Staff Present: David Nicolella, Associate Planner

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MINUTES

4A. For consideration, discussion, and possible action regarding the regular meeting minutes of March 20, 2011.

Commissioner Rowitsch MOVED, seconded by Commissioner Merritt to approve the regular meeting minutes of March 20, 2011. MOTION CARRIED 4-0, Vice Chairperson Garland Miner and Commissioner Jack Owen absent and Commissioner Sloan abstained

- 5. STAFF REPORT:** David Nicolella, Associate Planner/Zoning Administrator informed the Commission about the upcoming General Plan Committee meeting and the link located on the Town's web page giving information about the General Plan Committee. Mr. Nicolella also informed the Commission of the current residential building projects in process within the Town.

- 6. DISCUSSION ITEM: 6A:** SPR CASE NO. 12-002, REQUEST: THE PROPERTY OWNER IS REQUESTING A BUILDING PERMIT TO INSTALL A 672 SQ. FT. CONSTRUCTION TRAILER TO BE UTILIZED AS AN OFFICE/RESTROOM/CARETAKERS BUILDING FOR A LANDSCAPE GROWING YARD. NORMALLY THE SITE PLAN REVIEW PROCESS WOULD NOT BE REQUIRED FOR A PROJECT LIKE THIS, HOWEVER, IN THIS CASE, THE ORDINANCE THAT REZONED THE PROPERTY STIPULATED:

"SITE PLAN APPROVAL BY THE PLANNING AND ZONING COMMISSION IS REQUIRED BEFORE A BUILDING PERMIT SHALL BE ISSUED OR A USE ESTABLISHED ON THE PROPERTY".

Mr. Nicolella gave a brief presentation explaining why this item is being heard by the Commission stating: "In 2007, the subject property was rezoned from "AR-S" Agricultural Residential 5 Acre Minimum to "CL" Commercial Light, with Ordinance No. 07-693 (Exhibit B). This Ordinance contains a Stipulation (Zoning Stipulation #4) that requires site plan approval by the Planning Commission before the issuance of a building permit or the establishment of any use on the property."

He went on to state that Ordinance No. 07-693 does not require this project to be heard by the Council and clearly states that only the Planning Commission needs to approve the site plan.

However, there is a second aspect to the Commission review that involves the property owner's request to eliminate the paving requirements for the proposed drive aisles and parking surfaces. The request to waive the paving requirement is entirely at the Council's discretion and Town staff is requesting the Commission make a recommendation to the Council in regard to the request to waive the paving requirement until a permanent building is proposed.

In addition, staff is recommending that when a subsequential building permit is requested for a permanent building or an additional use is proposed for the property, the property owner will again, be required to go through the site plan approval process required through Ordinance No. 07-693.

Commissioner Rowitsch **MOVED**, seconded by Commissioner Merritt to **APPROVE** the site plan and to recommend the Town Council waive the paving requirements for the drive aisles and one parking space. This recommendation is for this project only. When a sub sequential building permit is requested for a permanent building or an additional use is proposed for the property, the property owner will again, be required to go through the site plan approval process required through Ordinance No. 07-693.

MOTION CARRIED: 5-0

- 7. PUBLIC COMMENTS:** No one spoke
- 8. ADJOURN:** 6:25 p.m.

Phil Rice Chairperson Date:

ITEM

6A

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PLANNING COMMISSION
STAFF REPORT

TOWN OF CHINO VALLEY, ARIZONA
AUGUST 7, 2012

LEGAL AD

ZC 12-001: NOTICE IS HEREBY GIVEN that a Public Hearing will be held before the Planning and Zoning Commission at the Town's South Campus Building located at 202 N. State Route 89, at 6:00 p.m. on Tuesday, August 7, 2012. This hearing will be conducted for consideration, discussion and possible recommendation to the Town Council regarding a proposed zone change to property located on the east side of Durham Drive, in Chino Valley, Arizona (Assessor's Parcel Number's 306-04-047C). This approximately 2-acre parcel is currently zoned "CL" Commercial Light. The request is to change the zoning to "CH" Commercial Heavy. Property Owner/Applicant: Keith Bunker

A. LOCATION: Please see Exhibit "A" Location Maps. Generally located in the area of State Route 89 and Road 5 North.

B. FACTS:

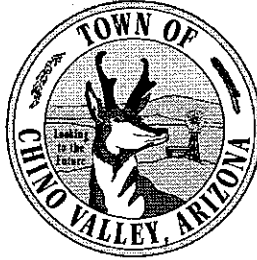
1. Owner/Applicant: Keith Bunker.
2. Site Area: Approximately 2 Acres
3. Existing Zoning: "CL" Commercial Light
4. Requested Zoning: "CH" Commercial Heavy
5. Adjacent Zoning and Use:
North..... Vacant "CL" Commercial Light
South..... Vacant "MR-1/MHP-4" Multi-Residential/
Mobile/Manufactured Home Park (4 Acre Minimum)
East..... State Land (Approximately 305 Acres)
West..... (Across Durham Dr.) "CL" Commercial Light
6. Water Source:..... N/A, future private well
7. Waste Water..... N/A, future private septic tank
8. Topography:..... Flat
9. General Plan Conformance:..... General Plan Designation is "COMMERCIAL". If the property is rezoned to "CH" Commercial Heavy, the property will be in conformance with the General Plan Future Land Use Element.

C. NOTIFICATION LETTERS: The Citizen Participation protocol as required by the Unified Development Ordinance (UDO) resulted in six (6) letters noticing the request being mailed out.

D. NEIGHBORHOOD MEETING: On July 23, 2012, a neighborhood meeting was held by Keith Bunker to discuss the proposed zone change with residents surrounding the property. The



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meeting was held at 202 N. State Route 89 and allowed adjacent landowners or other affected citizens, an opportunity to discuss or express their views concerning the rezone.

Mr. Bunker explained how he would like to move his existing Trucking Company onto the subject property, in order to do so the property has to be rezoned to CH zoning. The trucking company is a "for hire" flatbed trucking company specializing in light trucks.

Three people attended the neighborhood meeting and the following is an outline of the major concerns that were expressed at the meeting:

1. What do you propose to do with the property?
2. How much equipment will be stored on site?
3. The property owner to the south was concerned that this development will have an adverse impact on his property.

E. ANALYSIS: Currently the applicant owns and operates the Bunker Sawmill Trucking Company located in Prescott AZ. Mr. Bunker purchased the subject property in hopes of moving the Trucking Company onto the property. In the beginning the site will function as a "Contractors Yard" for the parking of three trucks. The three trucks will depart the site in the mornings and return in the evening. The additional trucks operated by Mr. Bunker are "over the road" trucks and most of the times are out of state. Eventually, Mr. Bunker would like to build a truck maintenance facility on the site but for now the site will remain vacant.

Existing Conditions: Currently this vacant 2-acre parcel is surrounded by a chain link fence with a large gate adjacent to Durham Drive.

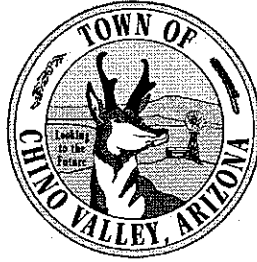
Adjacent Land Uses: The adjacent lands on three sides of the property are vacant included a large three hundred acre piece of State Land to the east. In addition, the Road 1 East alignment is adjacent to the subject property. The land across the road to the west (Durham Dr.) is the site of a storage facility and three metal warehouse buildings utilized by a variety of manufacturing companies.

General Plan Conformance: The proposed rezone is consistent and conforms to the Land Use Designation for the property as set forth in the Land Use Element of the Town's 2003 General Plan (Exhibit "B"). Therefore the requested change merits positive consideration and endorsement to the Town Council from the Planning Commission.

Access and On-Site Circulation: Access to the site is gained from Durham Drive. Durham Drive is a Town of Chino Valley right of way and currently is not improved and consists of dirt and gravel. Three properties have frontage on the right of way and at this time, no on-site circulation is proposed for the subject site.



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Technical Review Committee: At this time the property owner is not subject to technical review. Review by the Technical Review Committee will be required when the property owner proposes to build a building.

F. **RECOMMENDATION:** With the Findings and Stipulations indicated below staff endorses the following requests and suggests that the Commission forward the items to the Town Council with a recommendation for approval.

FINDINGS:

1. That the requested rezone from "CL" to "CH" is consistent with and conforms to the land use designation of Commercial and the goals of the "Town of Chino Valley 2003 General Plan".
2. That approval of the recommended rezone will not be adverse to the health, safety, convenience, and general welfare of the residents of the Town of Chino Valley, Arizona.

ZONING STIPULATIONS:

1. That the property owner agrees that the approval of this rezone confers no additional entitlements or rights to the owner or applicant other than those that are vested with the "CH" 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.

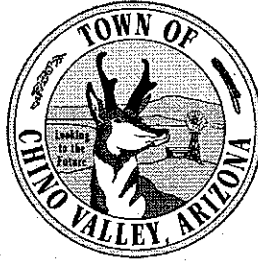
ENGINEERING STIPULATIONS: Adequate right of way exists for the Durham Drive.
Engineering has no stipulations.

Attachments:

Rezoning Application
Exhibit "A" Location Map
Exhibit "B" The General Plan Future Land Use Map



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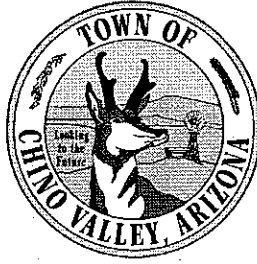
REZONING APPLICATION



REZONING APPLICATION

1.	PROPERTY OWNER NAME MAILING ADDRESS TELEPHONE NUMBER FAX NUMBER	Keith Burkner 1455 Suroog Ranch Rd. Prescott, AZ 86301 928 445-2379 928 445-2375
2.	APPLICANT NAME MAILING ADDRESS TELEPHONE NUMBER FAX NUMBER	Same as above
3.	ENGINEER NAME MAILING ADDRESS TELEPHONE NUMBER FAX NUMBER	N/A
4.	ARCHITECT/DESIGNER ADDRESS TELEPHONE NUMBER FAX NUMBER	N/A
5.	SITE LOCATION (Major Cross Streets)	Durham Dr. and Staley Ln.
6.	ASSESSORS PARCEL NUMBER(S)	306-04-047C
7.	SITE DIMENSIONS	491x758 x486 x 702
8.	SITE AREA (GROSS)	2.05 acres
9.	EXISTING STRUCTURES	NONE
10.	DESCRIBE ACCESS TO THE SITE (STREET FRONTAGE OR EASEMENT)	Hwy 89 to Staley Ln to Durham Dr.
11.	UTILITIES PROVIDED BY	ELECTRIC: GAS: N/A WATER: SEWER:
12.	FLOOD ZONE DESIGNATION	—
13.	EXISTING ZONING	Commercial light
14.	REQUESTED ZONING	Commercial heavy
15.	ADJACENT ZONING NORTH: CL SOUTH: MK-1 EAST: State land WEST: CL	ADJACENT LAND USE NORTH: — SOUTH: — EAST: — WEST: Storage warehouse
16.	TOPOGRAPHY	Flat land

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REZONING APPLICATION



17.	INTENT OF THE REZONE REQUEST: To build a mechanic shop
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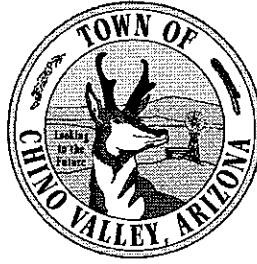
OWNER'S SIGNATURE: *Kevin Dember* DATE: 6/10/12

APPLICANT'S SIGNATURE: *Kevin Dember* DATE: 6/10/12

(Office Use Only):	
Date of Meeting: _____	Time of Meeting: _____
Agency's Notified: _____	
Log #: _____	



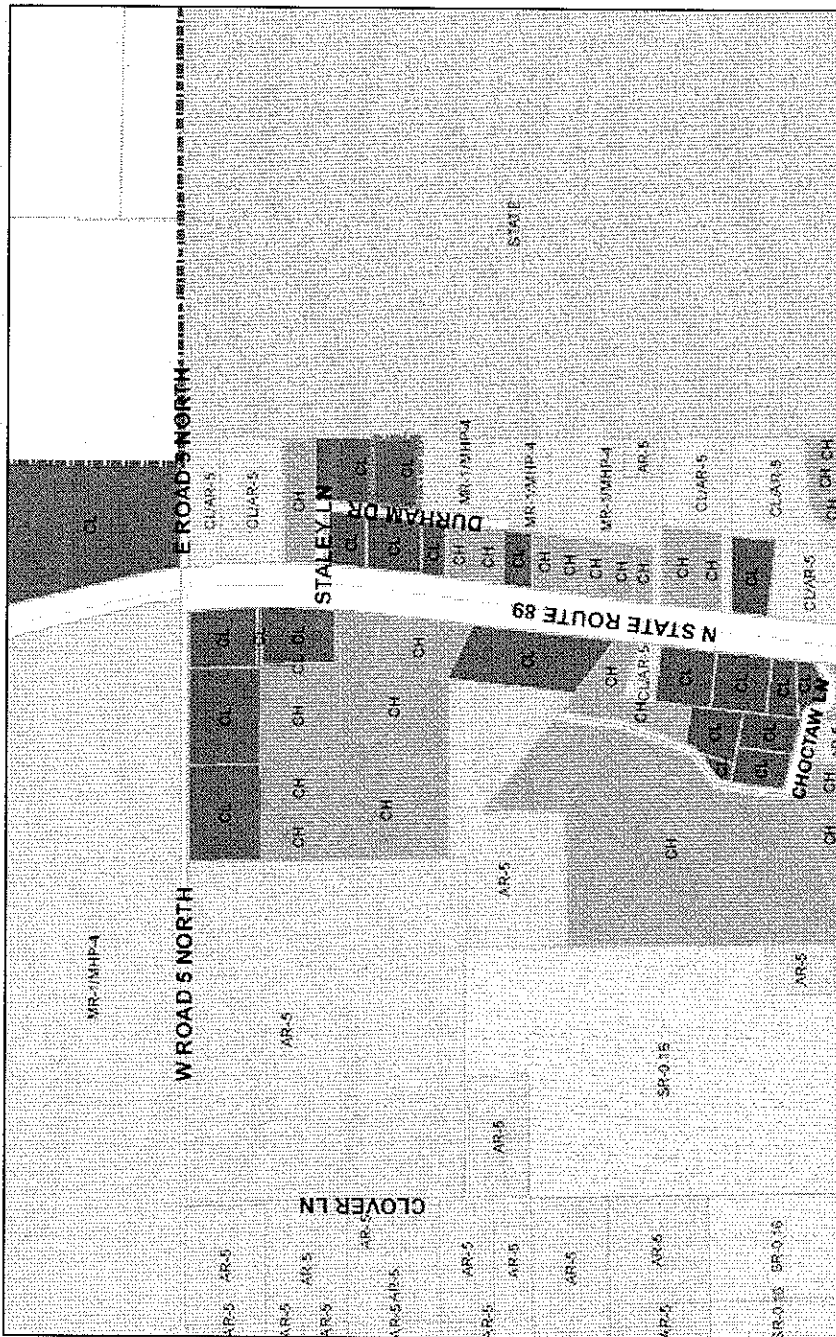
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EXHIBIT A

Keith BUNKER APN 306-04-047C
REZONE CL to CH
ZC 12-001



1 inch = 100 feet
This map is for informational purposes only and does not constitute a legal document. For legal purposes, please refer to the official zoning map on file with the Town of Chino Valley.



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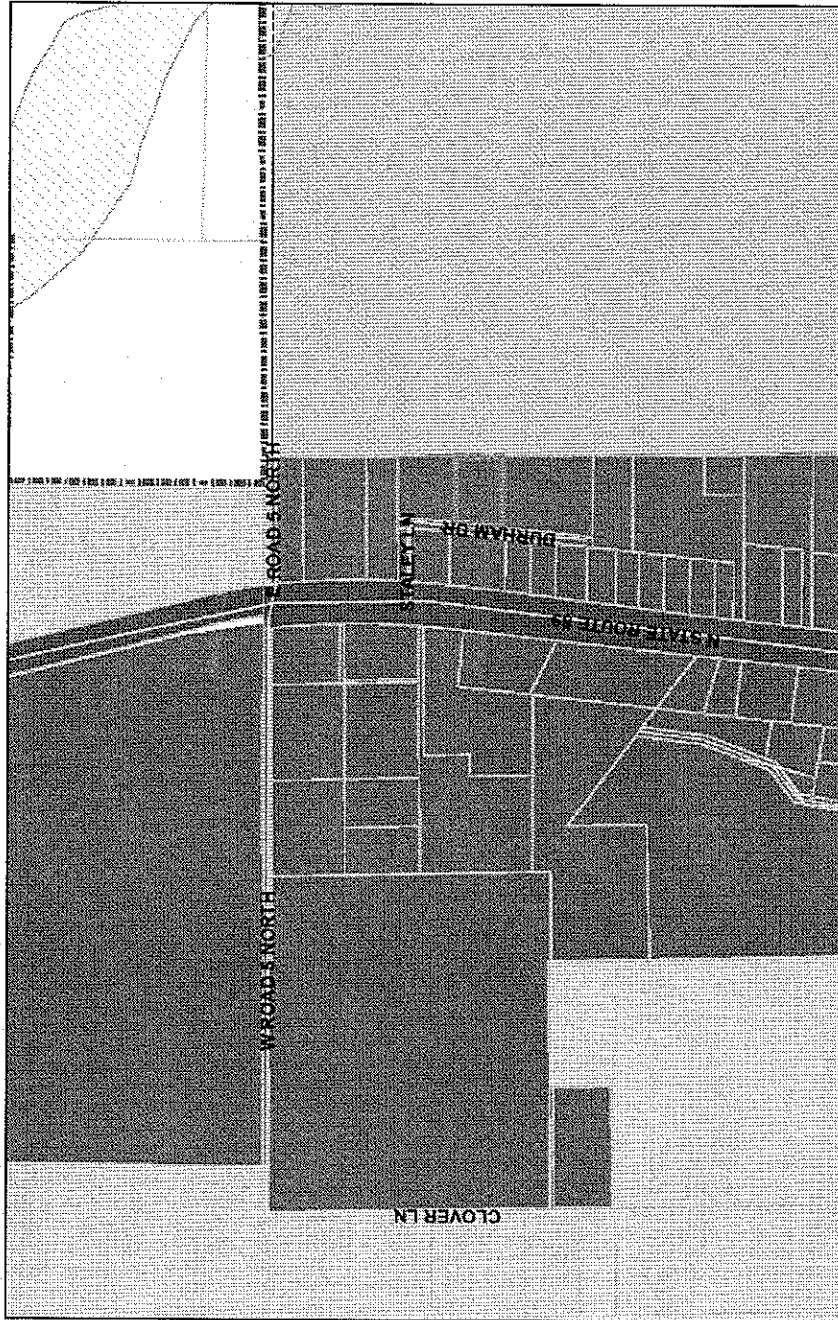


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EXHIBIT B

GENERAL PLAN - AMENDED
FUTURE LAND USE MAP

Keith BUNKER APN 306-04-047C
REZONE CL to CH
ZC 12-001



1 inch = 700 feet
The map is for informational purposes only. It is not a legal document. For legal purposes, please refer to the official records of the Town of Chino Valley.



ITEM

6B



PLANNING COMMISSION
STAFF REPORT

TOWN OF CHINO VALLEY, ARIZONA
AUGUST 7, 2012

LEGAL AD

NOTICE IS HEREBY GIVEN that the Town of Chino Valley's Zoning Administrator (ZA) is requesting a Planning and Zoning Commission Public Hearing regarding the Conditional Use Permit (CUP) for the Windmill House (Assessor's Parcel Numbers 306-05-030W and a portion of 306-05-030X). The Windmill House is located at 1460 W. Road 4 North and the CUP was approved on November 8, 2011, with Ordinance No. 11-754.

The Planning and Zoning Commission ("Commission") Public Hearing is requested because the ZA determined that an event that occurred at the Windmill House on May 19, 2012, the "Springfest" event, was in violation of the CUP approved with Ordinance No. 11-754. The Commission hearing will be held on Tuesday, August 7, 2012, at the Chino Valley Council Chambers-South Campus, located at 202 N. State Route 89, Chino Valley, Arizona, 86323, at 6:00 p.m. Location Maps. (Exhibit A)

The Commission shall make a recommendation regarding the violation, sanctions, and enforcement of the CUP to the Town Council. The Town Council (date to be determined) shall conclude whether to take action including to alter, amend, or revoke the CUP for the Windmill House.

A. FACTS:

1. Owner: Joseph Cordovana, Trustee of the LaVacara Family LLC
2. Occupant: Dean Echols, who was the party utilizing the Windmill House at the time of the violation. On June 29, 2012, Mr. Echols closed the doors to his operation at the Windmill House.
3. Site Area: The CUP approved with Ordinance No. 11-754 (Exhibit B) was for approximately 28 acres
4. Adjacent Zoning and Use:
 - a. North AR-5, Vacant
 - b. West SR-2.5, Single Family Dwellings
 - c. South SR-1, An undeveloped subdivision
 - d. East AR-5, Vacant

B. SITUATION:

On April 9, 2012, Town staff learned that the party utilizing the Windmill House (Dean Echols, Council Member for the Town of Chino Valley) was advertising the "Springfest" event, to occur at the Windmill House on May 19, 2012. Town staff learned of the event through a complaint filed by Michael Edmonds (Planning Commissioner with the Town of Chino Valley) and Ronald Maines (See section "H" of this report, "OTHER COMPLAINTS FILED BY EDMONDS AND MAINES").

After learning of the event, Town staff met with Mr. Echols and Mr. Cordovana (the owner of the property) to inform them that the "Springfest" event was outside of the scope allowed by the CUP and suggested the event be held elsewhere. The CUP provides a list of performance standards and a list of activities that can occur at the facility and the





"Springfest" event is not allowed. After the meeting, Town staff concluded that Mr. Echols was going to hold the event regardless. Mr. Echols indicated that the event was good for the community and he believed that the CUP allowed an event of this type.

On May 3, 2012, Town staff wrote a letter to Mr. Echols and Mr. Cordovana stating: "After receiving this notification, the violation should be corrected promptly, meaning that the "Springfest" event should be held elsewhere. Failure to do so shall subject the party utilizing the property (Dean Echols) and the owner of the property (Joseph Cordovana, Trustee of the LaVacara Family LLC) to enforcement and sanctions under the Unified Development Ordinance (UDO) and the terms of the CUP. The ZA (if there are multiple violations) shall request a hearing before the Planning Commission. In this event, the Planning Commission shall make a recommendation regarding the violation, sanctions and enforcement of the CUP to the Town Council and the Town Council shall determine "whether to take action including whether to alter, amend, or revoke the CUP" (Exhibit C).

Town staff is not aware of whether or not Mr. Cordovana had the authority to stop Mr. Echols from holding the event. That would depend on how the lease was written.

After being informed by Town staff that the Springfest event would be considered a violation of the standing CUP, on May 19, 2012, Dean Echols held the "Springfest" event at the Windmill House.

Because the "Springfest" event occurred, the Town is in the process of taking the following actions:

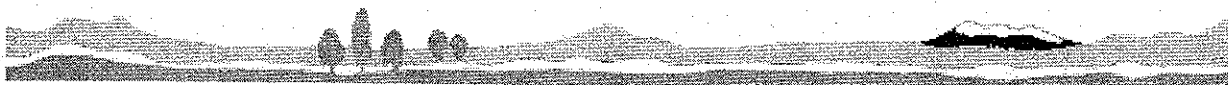
1. On May 21, 2012, the Town's Code Enforcement Department issued a citation for the violation of the CUP:
 - a. On June 19, 2012, Judge Hamm dismissed the citation until the CUP violation goes through the P&Z and Council process.
2. The Town's Planning Division is in the process of conducting a three phase review of the CUP, which should create clarity in the administration and enforcement of the CUP:
 - a. On June 27th a neighborhood meeting occurred; followed by
 - b. A Planning Commission public hearing; and finally
 - c. A Town Council Meeting

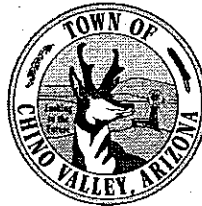
On June 29, 2012, Mr. Echols closed the doors to his operation at the Windmill House.

C. VIOLATIONS OF CUP ORDINANCE NO. 11-754:

Town staff has determined that the "Springfest" event violated three "Zoning Conditions" of the standing CUP:

1. The conditions of the standing CUP limits the land uses on the property by allowing "Weddings and other private events" but limiting "public" events. The "Springfest" event was a non-private event designed to bring the entire community together by offering a multitude of activities such as:
 - a. A 5K race
 - b. An Antique Car Show





- c. Music and food vendors
 - d. Face painting
 - e. Door prizes
 - f. Kiddy rides; and
 - g. Gifts and giveaways
2. The conditions of the standing CUP requires a dust mitigation plan if parking required for an event involves parking on non-paved surfaces. The CUP states, "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".
- a. All the paved parking on site was utilized by the Antique Car Show vehicles requiring the general public to park and drive on the dirt.
3. The CUP requires that events with amplification equipment shall be limited to an indoor use only. Outdoor amplification occurred at the "Springfest" event.

D. THE TOWN'S RESPONSE TO VIOLATIONS OF CUP ORDINANCE NO. 11-754:
"Zoning Conditions #4" in Ordinance No. 11-754" provides guidance on how to respond in the event of non-compliance or violation of the conditions of approval in the CUP and this section states:

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."

A careful analysis of "Zoning Conditions #4" reveals the following:

- a. Sanctions and enforcement under the UDO refers to Section 1.11.11 Civil Penalties- which states: *Any person who violates any Section of this Ordinance (In this case, Ord. No. 11-754) is subject to a civil sanction or penalty and shall be punished by imposition of a civil sanction not to exceed a base of five hundred dollars (\$500.00) plus all applicable surcharges and fees, unless another penalty is specified; and*
- b. The Commission, after hearing this matter, 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."





- E. **NEIGHBORHOOD MEETING:** On June 27, 2012, a noticed, public, neighborhood meeting was held by the Town of Chino Valley's Zoning Administrator (ZA). The meeting was held at 202 N. SR 89, at the Chino Valley Council Chambers—South Campus, and allowed adjacent landowners or other affected citizens, an opportunity to discuss or express their views concerning the Windmill House. Approximately fourteen (14) people attended the meeting and the following is an outline of the major concerns that were expressed at the meeting:
1. The owner and person utilizing the property are not complying with the conditions of the CUP.
 2. Since the original approval of the CUP (2003) the Town has done a poor job enforcing the CUP.
 3. The CUP is poorly written and needs to be written in a way that clearly defines what events can and cannot be held at the Windmill House.
 4. The CUP is well written it just needs to be enforced by the Town.
 5. The CUP allows "private events"; if the event is advertised it is not a private event. A kindergartener can tell the difference between a private and public event.
 6. The "Clubhouse" was built for the private use of the Cordovana development and also allows some quasi-public use.
 7. The owner knows the difference between private and public events. He puts a sign on the gate stating, "Private Event" when a private event occurs.
 8. Provide a clear definition of "private events" to eliminate any gray area.
 9. With the proper condition and enforcement mechanisms the Windmill House can be compatible with the neighborhood.
 10. You cannot stop progress. Everyone complains about new development. We need a place to have public events so why can't the Windmill House be that place?
 11. The "Springfest" event could have occurred at the Community Center. It did not have to occur at the Windmill House.
- F. **Material Submitted by Mr. Cordovana:**
1. List of proposed uses for the Windmill House (Exhibit D)
- G. **Material Submitted by Mr. Maines:**
1. List of proposed uses for the Windmill House (Exhibit E)
- H. **Material Submitted by Mr. Edmonds:**
1. List of proposed uses for the Windmill House (Exhibit F)
- I. **Other Complaints filed by Mr. Edmonds and Mr. Maines:**
1. The All Star Banquet event. The complaint stated that The All Star Banquet event, which occurred at the Windmill House on January 10, 2012, was in violation of the CUP.
 - a. Mr. Edmonds and Mr. Maines appealed the Board of Adjustments ruling on the All Star Banquet to the Superior Court. In the near future, the Superior Court should be dismissing the appeal.





2. The Jehovah Witness Church Service. The complaint stated that the Jehovah Witness Church Service, which occurred at the Windmill House on April 5, 2012, was in violation of the CUP

J. OTHER ISSUES FOR THE COMMISSIONERS' CONSIDERATION:

1. The property owner, Joseph Cordovana, Trustee of the LaVacara Family LLC, has not dedicated right-of-way along the properties Road 4 North frontage. As part of the Nov. 8, 2011 approval of the Windmill House CUP (Ordinance No. 11-754), Mr. Cordovana was required to dedicate right of way, as a condition of approval. His refusal to do so constitutes a violation of the approved CUP.
 - a. Town staff cannot allow a new business license for the Windmill House until the Planning Department receives right of way dedication paperwork which satisfies the CUP's condition of approval relative to ROW dedication.
2. The Town's Code Enforcement Department issued a citation for the violations of the CUP. On June 19, 2012, Judge Hamm dismissed the citation until the CUP violations go through the P&Z and Council process.
 - a. Staff is recommending the Town proceed with the citation for the violations under the UDO which refers to Section 1.11.11 Civil Penalties.
3. The property owner is requesting that outdoor amplification be allowed for certain non-private events, as defined in the amended CUP, with 65 decibels (65db) limit as measured at the property lines (65db has about a sound intensity of a normal conversation, and is below the standard threshold typically used in residential zones).
4. The Windmill House Corral Area: In September of 2010, the Town's Building Department authorized the use of some "concession stands" that were constructed on the Windmill House property. The concession stands consist of several western facades, and the Town's letter authorizing the use states: "With the removal of the concession stand roofs, the buildings do not require a building permit."
 - a. This area was added without any over-site or involvement by the Commission or Council and there is no mention of this area in the CUP. Staff is recommending that the CUP be amended to provide clarification that states, "The Corral/Concession stand area is not separate from the Windmill House and is subject to all of the conditions of the CUP."
5. The current CUP refers to the Windmill House as an "Event Center". The original CUP (Ord. No. 561) refers to the Windmill House as a "Privately owned and operated park and recreation facility and commercial agricultural sales in the "AR-5" Agricultural/Residential (5 Acre Minimum)" (Exhibit G).
 - a. Staff recommends that through this CUP amendment process, the terminology be clarified by Planning Commission and Council action, to reference only "Privately owned and operated park and recreation facility", instead of "Event Center".
6. Lastly, after the approval of the Windmill House CUP (Ordinance No. 11-754), Mr. Cordovana split the property into two parcels. The Town, on several occasions, has requested a site plan from Mr. Cordovana showing the location of the new property lines, the building footprint, septic tank and leach field as depicted in the new lot split. Although staff has requested it, Mr. Cordovana has not provided this information. The Planning Department needs this information to assure that setback requirements are





compliant and requests that the amended CUP require provision of said information as a condition of approval.

After several meetings and phone conversations with the neighbors and the property owner, and in consideration of the items discussed in the June 27th neighborhood meeting, it appears the best way to proceed with resolution of the conflicts surrounding the standing CUP is to recommend amendments to the existing CUP. Proper management of the facility, and clear, concise wording and structure of the CUP can lead to compatible use of the property in harmony with the neighborhood, as well as effective and clear enforcement of the CUP and Town Code.

- K. **STAFF RECOMMENDATION:** Staff suggests that the Commission forward the following "RECOMMENDATIONS" and "CUP AMENDMENTS" to the Town Council with an endorsement for approval:

RECOMMENDATIONS:

1. Town staff recommends that a new business license for the Windmill House not be issued until the Town's Planning Department receives right of way dedication paperwork as required in the original CUP.
2. Town staff recommends that a new business license for the Windmill House not be issued until the Town's Planning Department receives a new site plan, drawn to scale, showing the location of the new property lines, the building footprints, septic tanks and leach fields to assure that setback requirements are compliant.
3. Town staff recommends that the citation issued by the Code Enforcement Department be brought back to the Judge for consideration under UDO Section 1.11.11 - Civil Penalties.

CUP AMENDMENTS:

1. The following, based on input from public meetings and review of the Town's Code are Staff's proposed CUP amendments to Ordinance No. 11-754. The proposed amendments either have a "strikethrough" line, or have "both" an underline and CAPITAL LETTERS.

DRAFT

ORDINANCE NO. 11-754 (New number to be assigned)

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 306-05-030W AND A PORTION OF 306-05-030X TO ALLOW THE CONTINUED OPERATION OF THE WINDMILL HOUSE EVENTS FACILITY TO OPERATE AS A PRIVATELY OWNED AND OPERATED PARK AND RECREATION FACILITY. THE FACILITY MAY BE USED TO HOLD PRIVATE, LIMITED NON-PRIVATE, AND NON-PRIVATE EVENTS AS DEFINED IN THIS ORDINANCE AND TO ALLOW COMMERCIAL AGRICULTURAL SALES IN THE "AR-5" AGRICULTURAL RESIDENTIAL 5 ACRE MINIMUM ZONING DISTRICT.





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 events that demand parking requirements beyond the use of paved parking areas on site. Such events shall not occur without first submitting a dust mitigation plans to the Development Services Department AT LEAST TWO WEEKS PRIOR TO THE EVENT DATE, 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:

PRIVATE EVENTS – NO OUTDOOR AMPLIFICATION OF SOUND IS ALLOWED:

a. Weddings and other private events:

- i. See "Recreational Facilities" definition in the UDO
- ii. UNLIMITED NUMBER PER YEAR:
 - THE EVENT IS CONSIDERED A PRIVATE EVENT IF A SIGN IS PLACED ON THE ENTRY GATE WHICH STATES, "PRIVATE EVENT".
 - THE EVENT IS CONSIDERED A PRIVATE EVENT IF ATTENDEES ARE PERMITTED ACCESS BY INVITATION ONLY AND THE NUMBER OF INVITATIONS IS FINITE.
 - THE EVENT IS CONSIDERED PRIVATE IF NOT ANNOUNCED, ADVERTISED OR BROADCAST TO THE GENERAL PUBLIC.
- iii. THE use of the one existing on-site guest casita/ cottage IS FOR WEDDING EVENTS AND ASSOCIATED WITH WEDDING ACTIVITIES (no other COTTAGES to be permitted).

LIMITED NON-PRIVATE EVENTS:

- b. Buffet/open dinners, may be served a maximum of ~~two~~ THREE nights per week (in a seven day period).





- i. NO OUTDOOR AMPLIFICATION OF SOUND IS ALLOWED IN CONJUNCTION WITH BUFFET/OPEN DINNERS
- e. ~~Catering services.~~
- d. Pumpkin festival:
 - i. THE PUMPKIN FESTIVAL SHALL BE OPEN WEEKENDS DURING THE MONTH OF OCTOBER.
 - ii. REQUIRES INVOLVEMENT AND OVERSIGHT BY THE TOWN. THE TOWN REQUIRES A 30 DAY MINIMUM REVIEW PERIOD OR THE EVENT CANNOT OCCUR.
 - THE EVENT MANAGER IS REQUIRED TO SUBMIT A SITE PLAN, DRAWN TO SCALE, SHOWING HOW THE EVENT WILL BE LAID-OUT.
 - iii. ACTIVITIES MAY INCLUDE TRACTOR HAYRIDES, A PETTING ZOO, PUMPKIN SALES, JUMP HOUSES, FOOD AND ARTS-AND-CRAFTS VENDORS, AND SIMILAR TYPES OF ACTIVITIES AND VENDORS.
 - iv. OUTDOOR AMPLIFICATION SHALL BE LIMITED TO 65 DECIBLES (65DB) AS MEASURED FROM THE WINDMILL HOUSE PROPERTY LINE.

NON-PRIVATE EVENTS, OPEN TO THE GENERAL PUBLIC:

- a. A MAXIMUM OF 8 PER CALENDAR YEAR
- b. REQUIRES INVOLVEMENT AND OVERSIGHT BY THE TOWN. THE TOWN REQUIRES A 30 DAY MINIMUM REVIEW PERIOD OR THE PUBLIC EVENT CANNOT OCCUR.
 - THE EVENT MANAGER IS REQUIRED TO SUBMIT A SITE PLAN, DRAWN TO SCALE, SHOWING HOW THE EVENT WILL BE LAID-OUT.
- c. OUTDOOR AMPLIFICATION SHALL BE LIMITED TO 65 DECIBLES (65DB) AS MEASURED FROM THE WINDMILL HOUSE PROPERTY LINE.

THE WINDMILL HOUSE CORRAL/CONCESSION STANDS AREA:

- a. THE CORRAL/CONCESSION STAND AREA IS NOT SEPARATE FROM THE WINDMILL HOUSE AND IS SUBJECT TO ALL OF THE CONDITIONS OF THIS CUP.

OTHER PERMITTED ACTIVITIES:

- a. Catering services
- b. Indoor & outdoor sales of nursery stock and a greenhouse for indoor plants.
- 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.





SUMMARY TABLE OF ABOVE LAND USES

<u>PRIVATE EVENTS</u>	<u>LIMITED NON-PRIVATE EVENTS</u>	<u>NON-PRIVATE EVENTS</u>
<u>WEDDINGS AND OTHER PRIVATE EVENTS</u> <u>UNLIMITED NUMBER PER YEAR</u>	<u>BUFFET/OPEN DINNERS TO OCCUR A MAXIMUM OF 3 TIMES PER WEEK IN A SEVEN DAY PERIOD</u> <u>NO OUTDOOR AMPLIFICATION EQUIPMENT</u>	<u>A MAXIMUM OF 8 PER CALENDAR YEAR</u>
<u>NO OUTDOOR AMPLIFICATION EQUIPMENT</u>	<u>THE PUMPKIN FESTIVAL SHALL BE OPEN WEEKENDS DURING THE MONTH OF OCTOBER.</u> <u>REQUIRES INVOLVEMENT AND OVERSITE BY THE TOWN: THE TOWN REQUIRES A 30 DAY MINIMUM REVIEW PERIOD OR THE PUBLIC EVENT CANNOT OCCUR</u>	<u>REQUIRES INVOLVEMENT AND OVERSITE BY THE TOWN. THE TOWN REQUIRES A 30 DAY MINIMUM REVIEW PERIOD OR THE PUBLIC EVENT CANNOT OCCUR</u>
<u>THE EVENT IS CONSIDERED PRIVATE IF A SIGN IS PLACED ON THE ENTRY GATE WHICH STATES "PRIVATE EVENT"</u>	<u>ACTIVITIES MAY INCLUDE TRACTOR HAYRIDES, A PETTING ZOO, PUMPKIN SALES, JUMP HOUSES, FOOD AND ARTS-AND-CRAFTS VENDORS, AND SIMILAR TYPES OF ACTIVITIES AND VENDORS.</u>	<u>OUTDOOR AMPLIFICATION LIMITED TO 65DB AT THE PROPERTY LINE</u>
<u>THE EVENT IS CONSIDERED PRIVATE IF THE EVENT IS INVITATION ONLY</u>	<u>OUTDOOR AMPLIFICATION LIMITED TO 65DB AT THE PROPERTY LINE</u>	
<u>THE EVENT IS CONSIDERED PRIVATE IF NOT ANNOUNCED, ADVERTISED OR BROADCAST TO THE GENERAL PUBLIC</u>		

*THE EVENT MANAGER IS REQUIRED TO SUBMIT A SITE PLAN, DRAWN TO SCALE, SHOWING HOW THE EVENT WILL BE LAID-OUT

Attachments:

- Exhibit "A" Location Map
- Exhibit "B" Ordinance No. 11-754
- Exhibit "C" Letter to Dean
- Exhibit "D" Material submitted by Mr. Cordovana
- Exhibit "E" Material submitted by Mr. Maines
- Exhibit "F" Material submitted by Mr. Edmonds
- Exhibit "G" Ordinance No. 561



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 A

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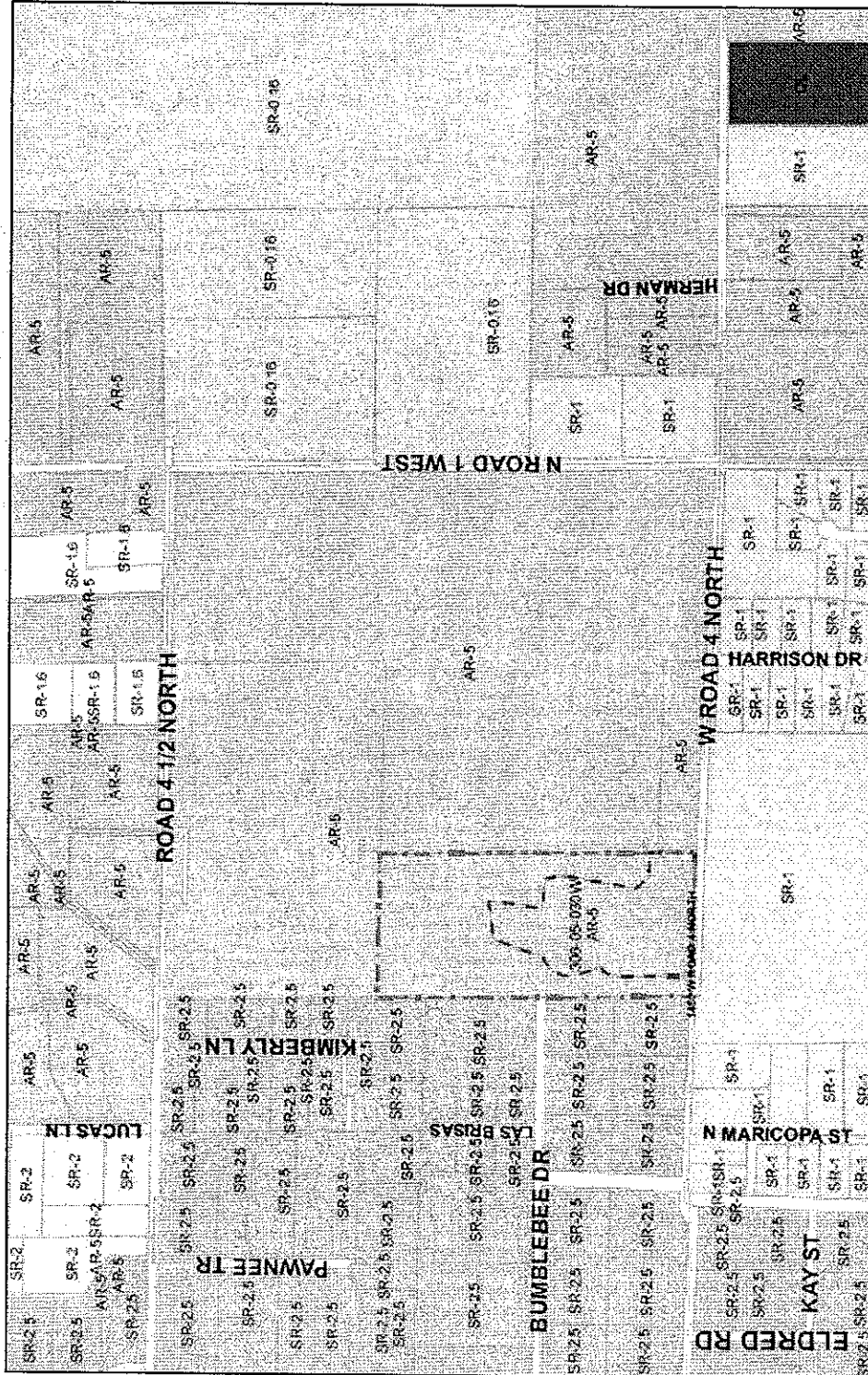




EXHIBIT B

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

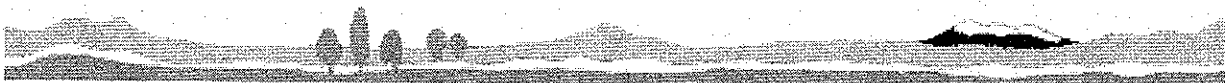
WHEREAS, the property owner, La Vacara Trust/Joe Cordovana, Trustee, has filed an application with the Town of Chino Valley ("Town") requesting a Conditional Use Permit for the real property legally described on Exhibit "A" as attached to this Ordinance; and

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 Sparynski 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.





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)
 - 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.



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



TOWN HALL (928) 636-2646
DEVELOPMENT SERVICES (928) 636-4427
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EXHIBIT C

May 3, 2012

Dean Echols; party utilizing the Windmill House
2049 N. Mohave
Chino Valley AZ 86323

RE: Complaints the Town of Chino Valley's Development Services Department (the town) received regarding the upcoming Springfest event scheduled to occur at the Windmill House on May 19, 2012.

Dear Mr. Echols,

On April 9th and April 19th 2012, the town received complaints in connection with the "Springfest" advertisements and the event scheduled to take place at the Windmill House on May 19, 2012 (copies enclosed). The complaint stated that the event would be in violation of the Conditional Use Permit, granted by Ordinance No. 11-754 (the "CUP"); because the event will be open to the public. The CUP states that events held at the facility shall be "private events," with the exception of a few enumerated specific events listed in the language of the CUP.

This letter is to inform you that the Zoning Administrator (ZA) has determined that the Springfest event scheduled to occur at the Windmill House (as described in the advertisement attached to the complaint) is a material violation of the CUP. After receiving this notification, the violation should be corrected promptly, meaning that Springfest should be scheduled to be held elsewhere. Failure to do so shall subject the party utilizing the property (Dean Echols) and the owner of the property (Joseph Cordovana, Trustee of the LaVacara Trust) to enforcement and sanctions under the UDO and the terms of the CUP. The ZA may (and if there are multiple violations shall) request a hearing before the Planning Commission. In this event, the Planning Commission shall make a recommendation regarding the violation, sanctions and enforcement of the CUP to the Town Council and the Town Council shall determine . . . "whether to take action including whether to alter, amend, or revoke the CUP."

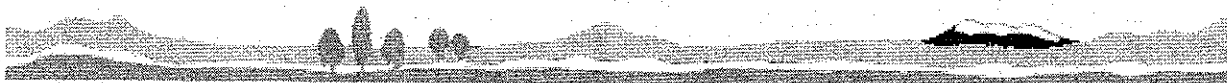
Should you have questions or concerns regarding this matter please feel free to contact me at your convenience.

Thank you,

David Nicolella
Zoning Administrator/Associate Planner
Phone: (928) 636-4427
email- dnicolella@chinoaz.net

Attachments:

1. Ordinance No. 11-754
2. Complaints



DEVELOPMENT SERVICES DEPARTMENT
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PO BOX 406
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EXHIBIT D

April 9, 2012

Town of Chino Valley
1982 N Voss Drive
PO Box 406
Chino Valley AZ 86323

RE: David Nicolella
Associate Planner

Dear Mr. Nicolella:

In answer to your letter from the Town and you dated April 5, 2012 the following is what my understanding of the CUP approval and use of the property is.

As you know I was promised before the Windmill House was built that I would get the permanent zoning. **When you first gave me the CUP it was to be perpetual and it is not.** In regards to the Windmill House, Windmill Corral, and Nursery this is to be opened 7 days a week as it has always been in order to pay for the commercial taxes and all other expenses to be paid. In the event I want to build anything on the property I need to be able to come to the town without having to get another CUP.

The following attached document is a listing of what Dean Echols has proposed for the use of the Windmill House. - *No longer relevant*

Thank you,
Joe Cordovana
Owner Windmill House

I certify by my signature below that this letter was hand delivered at Chino Valley Development Services Department, 1982 N. Voss Drive, Chino Valley, AZ on April 9, 2012.

David Nicolella



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



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DEVELOPMENT SERVICES (928) 636-4427
FAX (928) 636-2144

EXHIBIT D

16

July 23, 2012

Town of Chino Valley
1982 N Voss Drive
PO Box 406
Chino Valley AZ 86323

RE: Today's Meeting

Dear Mr. Nicoletta:

From our conversation today I wish to clarify the days of operation at the Windmill House. I would like to be able to open Wednesday, Thursday, and Friday for the Restaurant to serve to the public. The limited private events to be held 7 days a week and the Windmill Corral to be open Friday, Saturday, and Sunday for Public Events. The CPU needs to be PERPETUAL.

In November of 2011 we gave 25ft of land to the town from West to East on Road 4N and from South to North on I West and from East to West on 4 1/2 North. This exchange was to be paid to us at market value. To this date we have not received anything for this transaction. For this reason we are not open to another 25ft to give to you without compensation.

Thank you,

Joe Cordovana
Owner Windmill House

I, certify by my signature below that this letter was hand delivered at Chino Valley Development Services Department, 1982 N Voss Drive, Chino Valley, AZ on July 23, 2012.



For consideration by the Planning and Zoning Commission
concerning the Conditional Use permit of the Windmill House, ORD 11-754

I am unable to attend the August 7, 2012 Meeting and wish to make my observations with the following:

As a near by neighbor of the Windmill House and the Cordovana property as a whole we have learned to be vigilant in the protection of our property rights as granted in the General Plan and the Uniform Development Ordinance.

I believe you are all knowledgeable regarding the history of the property starting with the original approval for a gated, 5 acre estates development to which nobody objected. It would have been an enhancement of the area. Unfortunately the only thing in that plan that was completed was the "Club House" now the Windmill House. We, the neighbors, have hoped all along that there would be some sort of residential development that would utilize the Windmill House as it was intended.

Fast forward to November of 2011 when Commercial Light Zoning was denied and a new Conditional Use Permit was approved for the area around the Windmill House. The Conditional Use Permit was crafted to what the owner and, then operator, requested to simply continue to operate as it had been doing.

The previous Conditional Use Permit had expired in 2008 but the Town insisted that was OK because a Planned Area Development was in place. We brought this to the Town's attention on several occasions when all sorts of activities that were clearly beyond the scope of a Conditional Use Permit.

Things like the "Hog Days of Summer" which included very loud music and other "events" that were Public and Commercial in nature. The Town mainly ignored us and we were remiss in not taking action to deal with it.

Since the new CUP was approved in November 2011 there have been at least three "events" that we felt have been Public events not permitted and did take action in the form of official complaints. Two of the complaints have been upheld as violations.

We believe that part of the reason for this is the feeling by the owner and operator that what had been done in the past is permissible. They didn't pay attention to the part of the CUP that states: "Applicant agrees that the approval of this Conditional Use confers no entitlements or rights to the owner or applicant other than those vested as a Conditional Use in the AR-5 Zoning District."

Herein lies the rub. In the CUP, ORD 11-754 in the Zoning Conditions section #5, it states the Conditional Use Permit shall limit the subject property to the following land uses: Weddings and other Private events and then lists "events" that are Public in nature that are permitted - and no others. Period!

In our complaints we stated that the events were Public and therefore not permitted. In two of those cases the reason for our objection was obvious. They were loud and intrusive, just what we feared would happen if there were no restrictions.

This brought up the question of Public versus Private. To us the concept of what is Public and what is Private is pretty simple but the Town staff with the guidance of the attorney(s) has said no, it is a "gray" area.

The Town, the Windmill and we, the neighbors, all agree that a way to deal with the situation would be to be more explicit in defining Public and Private, what is allowed and what isn't. Namely amend the CUP with appropriate language.

One of the perceptions of us, the neighbors, is that we don't want anything going on at the Windmill House and that is simply not true. We realize that the Windmill House is a business but they have to acknowledge they

are in a residentially zoned area and that there have to be provisions to assure that the tranquility of a residential neighborhood is preserved.

It has been our experience that some of the events that have taken place which have been Public in nature haven't proven to be objectionable. For example when the Jehovah's Witnesses held their church service it was very low key.

So knowing that it may be hard for all the parties to agree on the language for the CUP we'll make some observations and make some suggestions for amending it.

For purposes of defining Public versus Private find attached a laundry list of definitions that comes from several different sources, Webster's Dictionary, case law and mostly common sense applications.

In the Zoning Conditions section of the CUP: ORD 11-754, the CUP attached

1. Emphasize that the only permitted uses are those spelled out. Past uses are not necessarily permitted. Also consider having the owner and occupant sign a document acknowledging that they have read and understand it's provisions.
2. Acceptable as written.
3. Emphasize that the dust mitigation plan applies to all events - drop the reference to "special" events.
4. Consider adding the ability of the Zoning Administrator to penalize a violation with a fine if necessary. This would make it easier for the Town to take immediate action if there are violations.
5. a. i. Delete the reference to Recreational Facilities.
And here is where the definitions for Public versus Private events are spelled out.
Continuing in this section list Public events that are permitted.
6. & 7. Are acceptable as written.
Add a provision that states that simply making a third party part of the event agreement does not make it Private.

We realize that as an ongoing business the Windmill House needs to be able to do more than the current CUP allows to enhance their bottom line.

For example the Buffet dinners are not a problem, the customers come and go in an orderly fashion and if there is demand for more than two per week, allow them.

Consider allowing groups and events that have a Public nature to be allowed if they are orderly and considerate. For example allow:

- Chamber of Commerce to have four(4) one(1) day events per calendar year.
- Rotary Club to have four(4) one(1) day events per calendar year.
- Lions Club to have four(4) one(1) day events per calendar year
- Elks Club to have four(4) one(1) day events per calendar year.
- Town of Chino Valley to have four(4) one(1) day events per calendar year.

Consideration should also be given to other Fraternal Organizations, Service Organizations, Religious Organizations, Reunions and even Businesses so long as they are not advertising to the General Public. This list isn't exhaustive. I'm sure you can think of others and so will the Windmill.

Personally, we think that most indoor events are acceptable because there is a capacity rating that has to be observed. On the other hand it isn't likely that everybody would agree to indoor only events.

Outdoor events just seem to beg for music and have the potential for other noise and general congestion just because the volume of participants is potentially much larger.

Given that this is unique situation with regards to what is permissible and what is not, how about a unique approach to dealing with outdoor events? Consider making it a requirement to get the Zoning Administrator's approval (a permit) for each outdoor event? That would assure that things like the dust mitigation program is addressed as well as assessing the events ability to comply with acceptable noise levels. As noted, the music issue and other noise levels are adequately addressed, Zoning Conditions 6 & 7.

It would seem obvious but there are outdoor events that should definitely be prohibited:
Car shows, Motorcycle shows and events like the Hog Days of summer come to mind but any similar groups that would likely to be large and likely to exceed acceptable noise and congestion levels.

We hope that you take extra time, if necessary, in your deliberations and decision to help put something together that will work this time.

With regard to the violation that took place with the Springfest event please make sure that the Town follows it through to the conclusion.

Respectfully submitted.

Ronald Maines
Marilyn Maines
Chino Valley AZ

Attached:
ORD 11-754, the CUP
Definitions of Public versus Private

A couple of additional thoughts

The Conditional Use Permit does not disadvantage the holder, instead it enables the holder to have Functions/Events lawfully without risking violations of the approved conditions.

Light pollution from the Windmill has been a problem for those living close by. Please specify that the bulbs in use are those approved by the appropriate code.

Also, the most recent operator was in the habit of having the lights on from about 7:00pm until midnight or later every night even if there was no event. It would only be considerate for the operator to assure the lights are off when not needed.

Private

A Function/Event/Assembly may only meet the definition of Private if it is under the control of the holder of the Conditional Use Permit and not held open to the General Public.

Not widely or publicly known.

Confidential, secret.

Non Public, Exclusive.

There is a selective process for admission of the attendees.

The event will be attended only by those who receive a personal invitation.

Not known or meant to be known by the general populace.

If an event is Private only those involved will know about it.

Public

Of, relating to , or concerning the people as a whole. The general public is invited.

Open or accessible to all.

Public events can be attended by anyone.

There is nothing selective about allowing attendance.

Participation by and or inclusion of strangers.

There is advertising to the general public utilizing any manner, media or method including word of mouth.

Offering attendance for free, a donation or failing to charge a fee to attend a Function/Event does not make a Function/Event Private.

From Webster's Dictionary

Private - Intended for, or restricted to the use of a particular person, group or class.

Public - Of, relating to, or affecting all the people.
Of or relating to people in general.

From random websites

Public events - Public events can be attended by anyone. The event's information and details can also be viewed by anyone.

Private events - Unlike public events, users invitation had to be approved by the event administrator in order for them to view the event's information and details. Events created in private groups can only be viewed and attended by private group members.

Or

Public event - If you select your event to be Public, the event will visible to all. Also it will allow all the invitees to invite other people to the event.

Private event - If you select your event to be Private, the event will be visible to invitees only. Further, you may also opt to indicate the event to be by invitation only.

Proposed language for consideration regarding the Windmill House
(Red indicates change from existing CUP)

ORDINANCE NO. 11-754

ZONING CONDITIONS:

1. Consider modifying to read:

- a. Applicant agrees that the approval of this Conditional Use confers no entitlement or rights to the owner or applicant other than those that are vested **with Ordinance No. 00-000** as a Conditional Use in the AR-5 Zoning District.

2. Acceptable as written.

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. Consider clarifying sanctions and enforcement provision:

To read:

The Conditional Use Permit (CUP) is granted for a period of Fifteen (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) **first**; shall be subject to sanctions and enforcement under the UDO. **Then** 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. The Conditional Use Permit shall limit the subject property to the following land uses:

- a. Weddings and other private events:

(eliminate reference to Recreational Facilities")

- 1) No outside events shall be permitted other than those specifically identified by the Conditional Use Permit

The terms "Private" and "Public" use shall have the meaning as defined in the Merriam- Webster Dictionary.

Private Events shall mean, for use by a particular person or group available only to them; confined to or intended only for the persons immediately concerned.

An event that is attended by only a limited few and not publically shared.

An event where attendees are specifically invited by the host of the event.

Any event that is advertised through any form of media, electronic, print or visual solicitation shall be prohibited.

Events such as "Hog Days" or other events that take place outside of the building currently known as the Windmill House are specifically prohibited.

No events that allow camping overnight on the grounds

A prohibited Public event is anything that is not a private event.

No events open to the public are permitted unless specifically enumerated in this Conditional Use Permit.

Public Events shall mean, for use by any persons without restriction or invitation no one is prohibited from attending.

- 1) Use of the one (1) existing on site guest casita/cottage.
(such use is limited to the event of the day)
(no other buildings are permitted)
- b. Buffet/Open dinners may be served seven nights per week
- c. Catering services for offsite events
- d. Sales of indoor and outdoor nursery stock and a greenhouse for indoor plants.
6. Any events with amplification equipment or with speakers with such amplification equipment shall be limited to indoor use of only the Windmill House Building
(restriction to follow with any name changes)
7. 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.

8.

ENGINEERING CONDITIONS: Acceptable as written.

EXHIBIT "A" Legal Description: May require updating due to reconfiguration.

Suggestions

The Following Events are Open to the Public and Permitted under the CUP

Chamber of Commerce: Four (4) One (1) day events per calendar year.

Rotary Club: Four (4) One (1) day events per calendar year.

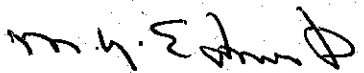
Lions Club: Four (4) One (1) day events per calendar year.

Elks Club: Four (4) One (1) day events per calendar year.

Town of Chino Valley Four (4) One (1) day events per calendar year.

List is not all inclusive and similar activities that would have a similar minimum impact on the neighborhood may be appropriate.

Respectfully,



Michael Y. Edmonds
1575 West Road 4 North
Chino Valley, AZ 86323
508-397-0415

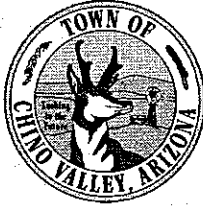


EXHIBIT G

ORDINANCE NO. 561

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, TO PROVIDE FOR A CONDITIONAL USE PERMIT ON ASSESSOR'S PARCEL NUMBER 306-05-031K, FOR THE PURPOSES OF PRIVATELY OWNED AND OPERATED PARKS AND RECREATION FACILITIES AND COMMERCIAL AGRICULTURAL SALES IN THE "AR-5" (AGRICULTURAL/ RESIDENTIAL 5 ACRE MINIMUM) ZONE.

WHEREAS, a public hearing was held before the Planning and Zoning Commission on November 4, 2003; and

WHEREAS, the Commission found that approval of a Conditional Use Permit for the purposes of privately owned and operated park and recreation facility and commercial agricultural sales in the "AR-5" Agricultural/Residential (5 Acre Minimum) zone will not be detrimental to the public health, safety, peace, convenience, comfort and general welfare of persons residing or working in the neighborhood of such proposed uses, or be detrimental or injurious to property and improvements in the neighborhood, or to the general welfare of the Town; and

WHEREAS, the Commission voted unanimously to approve the Conditional Use Permit.

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

Section 1. That a Conditional Use Permit is hereby issued for Assessor's Parcel Number 306-05-031K as shown in Exhibit "A" for the purposes of privately owned and operated park and recreation facility and commercial agricultural sales as shown in Exhibit "B" in the "AR-5" Agricultural/Residential (5 Acre Minimum) zone with the following conditions:

1. The Conditional Use Permit is granted for five (5) years, and renewal shall be initiated by the applicant prior to expiration;
2. Applicant shall comply with all Codes of Town of Chino Valley;



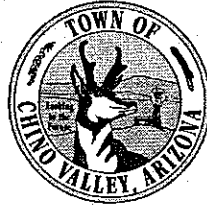


EXHIBIT G

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3. Provide a screening wall/fence, landscaping or any combination thereof to separate the proposed clubhouse and associated parking areas and the parking area for the nursery operation from adjacent residential districts and/or residential uses;
4. All site lighting whether existing or proposed shall conform to Section 406 OUTDOOR LIGHTING and be approved by the Planning and Building Department;
5. The applicant shall provide landscaped traffic islands spaced no more than 150' or fifteen (15) consecutive parking spaces as shown on Exhibit "C";
6. Provide and maintain dust-free surfacing for the driveway leading to the nursery and to the clubhouse per the approval of the Town Public Works Director/Engineer;
7. The hours of operation for the clubhouse shall be limited to between 7:00 am to midnight;
8. The hours of operation for the nursery shall be limited to between 8:00 am and 5:00 pm;
9. Delivery hours shall be limited to between 7:00 am to 6:00 pm.

Section 2. This ordinance repeals any prior enactment by the Town of Chino Valley, which is inconsistent herewith.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference 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.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona, this 13th day of November, 2003.

