

1. Agenda

Documents: [AGENDA SEPTEMBER 04.PDF](#)

2. Packet

Documents: [PACKET SEPTEMBER 04.PDF](#)



NOTICE OF THE REGULAR MEETING OF THE PLANNING AND ZONING COMMISSION

**September 4, 2012
6 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, September 4, 2012, at 6:00 p.m. in the 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. August 7, 2012**
- 5. STAFF REPORT**
- 6. DISCUSSION ITEM**

6A. SPR Case no. 12-003, request: the property owner is requesting relief from section 4.22.4 parking design standards in the Unified Development Ordinance (UDO). The Town Engineer is requiring a chip seal surface for the primary traffic lanes and parking areas. The property owner is requesting the Commission forward a recommendation to Council suggesting that the existing surface is adequate. The existing surface consists of crushed block and is the same material as the Town's Durham drive right of way. Durham drive is adjacent to the subject site.

- 7. PUBLIC HEARING**

7A. 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 (Continued from the August 7, 2012 agenda).

8. PUBLIC COMMENTS

9. 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.



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1. **CALL TO ORDER**
2. **ROLL CALL**
3. **PLEDGE OF ALLEGIANCE**
4. **APPROVAL OF MINUTES**

4A. **August 7, 2012**

5. **STAFF REPORT**
6. **DISCUSSION ITEM**

6A. SPR Case no. 12-003, request: the property owner is requesting relief from section 4.22.4 parking design standards in the Unified Development Ordinance (UDO). The Town Engineer is requiring a chip seal surface for the primary traffic lanes and parking areas. The property owner is requesting the Commission forward a recommendation to Council suggesting that the existing surface is adequate. The existing surface consists of crushed block and is the same material as the Town's Durham drive right of way. Durham drive is adjacent to the subject site.

7. **PUBLIC HEARING**

7A. 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

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described as APN: 306-05-030W, and a portion of 306-05-030X (Continued from the August 7, 2012 agenda).

8. PUBLIC COMMENTS

9. 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.

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TOWN OF CHINO VALLEY
PLANNING AND ZONING COMMISSION
Regular Meeting Minutes
Chino Valley South Campus
202 N. State Route 89
August 7, 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
Garland Miner, Vice Chairperson
Jack Owen, Commissioner
Charles Merritt, Commissioner
Gwen Rowitsch, Commissioner
Michael Edmonds, Commissioner

Staff Absent: Florence Sloan, Commissioner

Staff Present: David Nicolella, Associate Planner
Town Manager, Robert Smith
Town Attorney, Tom Kack
Mary Brasher, Administrative Clerk

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MINUTES

4A. For consideration, discussion, and possible action regarding the regular meeting minutes of July 3, 2012.

Commissioner Edmonds MOVED, seconded by Commissioner Merritt to approve the regular meeting minutes of July 3, 2012.

MOTION CARRIED 4-0 Commissioners Miner, and Owen abstained

5. STAFF REPORT: None

6. PUBLIC HEARING: Chairman Rice opened the public hearing.

6A: 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 Dr. in Chino Valley, Arizona and consists of approximately 2 acres, and is further described as APN: 306-04-047C. Applicant/Owners: Keith Bunker.

David Nicolella, Associate Planner gave a brief overview of the request for this rezone showing the location of the property, access, and the public notice requirements that have been met, stating the few concerns that were voiced by citizens who attended were addressed at the neighborhood meeting. The applicant wishes to use this property as a contractor's yard where three trucks would be stored. These trucks would leave in the morning to make local deliveries and return in the afternoon. The property is fenced in with a roll gate at the front of the property, and is surrounded by commercially zoned property except for state land to the east and one property to the south with a blended zoning of MR-1/MHP-4, these sites are all currently vacant. The applicant did not have to go through the Technical Review Committee because there is no building proposed at this time. The applicant stated that a building may be constructed in the future for truck maintenance and repair. If a building is proposed in the future the applicant will be required to attend a Technical Review meeting where all the requirements including drainage, paving, landscaping etc. would be addressed, if the building proposed is over 5,000 square feet, it would go to the Commission for site plan review. Staff recommends approval of this rezone and since there is already adequate right of way, no additional right of way is being requested at this time.

Mr. Nicolella and the Commissioners discussed engineering standards for hard surface for vehicular traffic; buffering from the residential property to the south, and possible future plans for the property and its uses, and the permitted uses for CL zoning with a CUP and CH zoning.

Chairman Rice opened the public portion of the meeting.

Keith Bunker, Applicant stated there is already about 6" of material on the surface; it is crushed waste material from a block plant which creates a surface other than just dirt.

Commissioner Edmonds asks about expanded uses on the property, transference of materials etc.

Mr. Bunker stated there is flagstone hauled and approximately once a month flagstone will be carried in, taken off the truck and reloaded with a forklift onto another truck to be hauled off. Material would not be stored on site; there will not be any inventory on the site.

Vice Chairman Miner MOVED, seconded by Commissioner Merritt to recommend to the Town Council approval of the request to rezone the property from Commercial Light (CL) to Commercial Heavy (CH) with the findings and stipulations as noted in the staff report.
MOTION CARRIED: 6-0

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.

Commissioner Edmonds recused himself from this item and left the dais.

Mr. Nicolella gave a brief presentation of the history of the property and the reason for this hearing. He also mentioned that the property was split and staff has asked the owner to supply our office with a legal description or site plan to clarify where the property lines are and the setbacks for the current building, and the location of the septic tank. The current occupant of the Windmill House at the time of the violation has since moved his business elsewhere. Staff contacted the applicant and the owner when knowledge of the activity was going to occur, and informed them that activity would be in violation of the CUP. Mr. Nicolella explained the criteria used to determine the event was a violation of the CUP and the process staff has taken since the violation occurred. He explained other issues involving this property such as the right of way (ROW) dedication requirement that the owner of the property has not yet complied with. The owner has requested that outdoor amplification be added to the CUP with a decibel level at the property line that could be enforced. The police department voiced concern about their ability to enforce that, however that is being addressed and staff is assured that enforcement will be obtained. Mr. Nicolella explained a few other items the owner would like to see included in the CUP, specifically the corral. Mr. Nicolella discussed a few other issues for the Commission to look at including the language of the CUP, and gave some recommendations for solutions to these issues that the Commission could consider.

The Commissioners, Mr. Nicolella, Robert Smith, Town Manager, and Tom Kack, Town Attorney discussed the particulars involving the ROW, setbacks, CUP language, the issue of private vs. public, the coral and its uses, advertisement, event limitations, impacts to the neighbors, enforcements, the need for thresholds, and the fact that some of the language proposed is vague. The Commissioners asked staff to collect particular data and bring this item back to them when staff is able to give the Commission the pertinent information which would enable them to make a responsible decision and recommendation to Council.

Chairman Rice opened for public comments.

Jim Tripp stated he has leased the Windmill House and the Town keeps changing the rules and his business will provide jobs and taxes for the Town and he is in need of specific guidelines so he can move forward with their business.

Dick Busby commented that a site plan will be provided within three weeks for the Commission. He referenced a building permit that was issued for the Coral on the property and some of the problems associated with that.

Gary Grindstaff commented that he lives next to the Windmill House and has noticed that traffic and noise has decreased enormously since the Windmill House closed their doors. He doesn't want to see his property values decrease because of the operation of the Windmill House.

Lon Turner stated that no one from the Town is changing the rules, he felt the rules have been misunderstood and felt that if the owner knew exactly what documents are required from him he would comply.

Joe Cordovana stated that he needs to operate his business seven days a week and will comply with whatever the Town ask for.

Chairman Rice closed the public portion.

The Commissioners all agreed they needed more information regarding this property and asked staff to collect that data and have it available to them for their review. They could not make a responsible decision or recommendation to the Council without all the appropriate information. There was some concern regarding the enforcement of the CUP and how they thought that should be handled and requested staff provide particulars on how the CUP would be enforced in addition to the other data.

Commissioner Rowitsch MOVED, seconded by Vice Chair Miner to table this item until the September 4, 2012 P & Z Commission Meeting.

MOTION CARRIED: 6-0

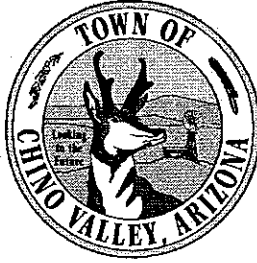
7. PUBLIC COMMENTS:

8. ADJOURN: 8:00 p.m.

ITEM

6A

DEVELOPMENT SERVICES DEPARTMENT
1020 WEST PALOMINO ROAD
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PLANNING COMMISSION
STAFF REPORT

TOWN OF CHINO VALLEY, ARIZONA
SEPTEMBER 4, 2012

SPR CASE NO. 12-003, REQUEST: THE PROPERTY OWNER IS REQUESTING RELIEF FROM SECTION 4.22.4 PARKING DESIGN STANDARDS IN THE UNIFIED DEVELOPMENT ORDINANCE (UDO). THE TOWN ENGINEER IS REQUIRING A CHIP SEAL SURFACE FOR THE PRIMARY TRAFFIC LANES AND PARKING AREAS. THE PROPERTY OWNER IS REQUESTING THE COMMISSION FORWARD A RECOMMENDATION TO COUNCIL SUGGESTING THAT THE EXISTING SURFACE IS ADEQUATE. THE EXISTING SURFACE CONSISTS OF CRUSHED BLOCK AND IS THE SAME MATERIAL AS THE TOWN'S DURHAM DRIVE RIGHT OF WAY. DURHAM DRIVE IS ADJACENT TO THE SUBJECT SITE.

A. LOCATION: Please see Exhibit "A" Location Maps

B. FACTS:

1. Owner/Applicant: Keith Bunker
2. Site Area:..... 2 Acres (Approximately)
3. Existing Zoning:..... Currently Commercial Light. On September 11, 2012, the Town Council will hear a request to rezone the property to Commercial Heavy.
4. Adjacent Zoning and Use:
 - a. North.....Vacant land zoned "CL"
 - b. South.....Vacant land zoned "MR-1/MHP-4" Multi-Residential/Mobile/Manufactured Home Park (4 Acre Minimum)
 - c. East.....State Land (Approximately 305 Acres)
 - d. West.....(Across Durham Dr.) Various manufacturing businesses and a Mini-Storage facility
5. Topography:.....Flat

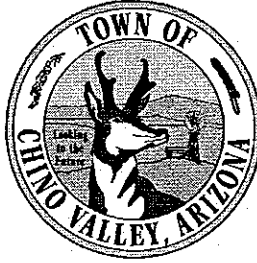
C. ANALYSIS:

The Commission is familiar with this site because on August 7, 2012, the property owner came before the Planning Commission requesting a rezone on the subject site. The Commission recommended that the Town Council approve the rezone request and on September 11, 2012, the Council will consider the Commission's recommendation.

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.



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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 evenings. Eventually, Mr. Bunker would like to build a truck maintenance facility on the site but for now the site will remain vacant.

To use the site as a Contractor's Yard the UDO requires the yard to provide a screening fence around the yard and to comply with Section 4.22.4.B.5 which states: ***"Site development: when a site is to be developed for a commercial purpose allowed by the Unified Development Ordinance that does not include a building, the primary traffic lanes and any required parking area shall be surfaced in a manner and extent that is approved by the town engineer."*** The Town engineer is requiring a minimum surface of chip seal. The property owner is suggesting that the existing surface is adequate. The existing surface consists of crushed block and ABC which is the same material as the Town's Durham Drive right of way. Durham Drive is adjacent to the subject site.

Staff believes that given the current state of Durham Drive, to require the property owner to apply a chip seal material to his property seems inconsistent with existing condition of Durham Drive.

GRADING AND DRAINAGE:

A Grading and Drainage report is not required for the proposed Contractor's Yard

LANDSCAPE PLAN:

Landscaping is not required for the proposed Contractor's Yard

SCREENING PLAN:

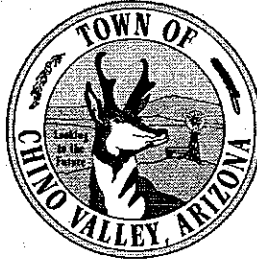
The UDO requires Contractor's Yards to be screened on all sides. The property is proposing to attach corrugated steel to the existing chain link fence

LIGHTING PLAN:

The property owner is not installing lights for the Contractor's Yard



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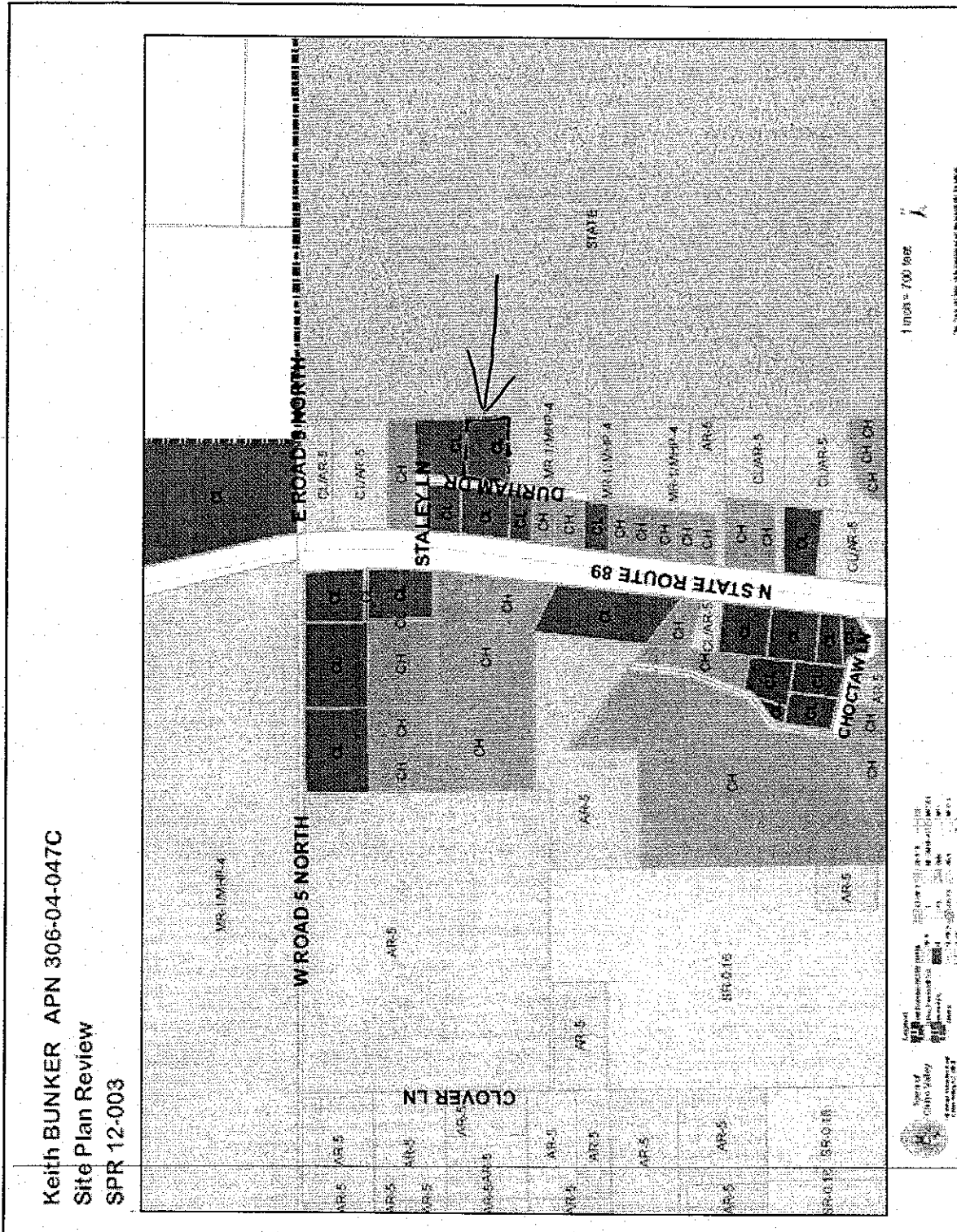
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D. **RECOMMENDATION:** Staff recommends **APPROVAL** of the request to waive the paving requirement until a permanent building is proposed.

Attachments:

Exhibit "A" Location Maps
Exhibit "B" Section 4.22.4. B. 5







- A. Driveways. Driveway spacing - no access driveway shall be located closer than one hundred (100) feet for a collector and arterial street intersection.

No access driveway shall be located closer than fifty (50) feet from a local street intersection.

Commercial and industrial driveways shall have a minimum separation of two hundred (200) feet centerline to centerline (shared driveways and cross access are encouraged).

A reduction in spacing may be granted by the town engineer.

- B. Front yard. - Any vehicle that is not otherwise prohibited by the provisions of this Ordinance from being parked in the front yard of a single-family or two-family residence lot may be parked upon a driveway.

4.22.4 Parking Design Standards

Parking areas, required herein, shall be provided, improved and maintained in accord with the following specifications.

Parking Standards Pertaining to All Districts

- A. Permits (Amended with Ord. 08-707/ Res. 08-886 passed on 10/23/08).

No building permit shall be issued until the applicant has presented satisfactory evidence to the Zoning Administrator, or his/her designee, that he owns or has otherwise available for their use, sufficient property to provide required parking.

-  B. General Requirements for All Spaces (Amended with Ord. 08-707/ Res. 08-886 passed on 10/23/08).

1. All vehicular egress from parking lots to public right-of-way shall be by forward motion only, except in the case of single-family and two-family residences fronting on a local street or a primary or secondary collector street.
2. New construction and conversion of a residence to a commercial use: Subject to the provisions contained in this subsection (B), all required parking and loading spaces, maneuvering areas, driveways, and fire lanes shall be paved with asphaltic concrete over an a.b. base, concrete or masonry to a thickness and structure that will support the type and intensity of vehicular traffic generated by the proposed use. As the requirements may vary the



paving cross section will require approval by the town engineer. The town engineer may also approve alternative surfacing such as "chip seal".

3. Additions to existing structures: whenever an addition to an existing structure is proposed that enlarges the existing structure by 50% or more then the above requirements in number 2 shall apply.
4. Change of use in an existing commercial building: the applicant shall provide a site plan indicating that the parking area is of sufficient size and adequate dimension to provide any additional parking that the new use may be required to provide in accordance with the requirements of this code. Whenever a change of use occurs the owner is encouraged to provide a dust free surface such as decomposed granite over the entire area that is dedicated to the required parking and maneuvering area and driveways.
- ~~5. Site development: when a site is to be developed for a commercial purpose allowed by the Unified Development Ordinance that does not include a building, the primary traffic lanes and any required parking area shall be surfaced in a manner and extent that is approved by the town engineer.~~
6. All areas of the parking lot must be at least ten (10) feet from front property lines and five (5) feet from rear and side property lines.
7. Tandem arrangement of required parking spaces is prohibited, except for handicapped parking spaces (Amended with Ord. 09-424/ Res. 09-921), and as otherwise permitted by this Ordinance.
8. Permanent use of off-street parking areas for other than approved uses shall constitute a violation of this Ordinance. Should the owner or occupants of a building change the use of the building and thus increase the requirement for off-street parking, it shall constitute a violation of this Ordinance, until the parking requirements have been complied with.

4.22.5 Parking Standards for Non-Residential or Mixed Uses

In case of mixed uses, the total requirements for off-street parking space shall be the sum of the requirements of the various uses computed separately.

A. Maintenance.

It shall be the joint and separate responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking space, access ways, striping, landscaping, and required fences or screening.

ITEM

7A



Memorandum

To: The Planning and Zoning Commission
From: David Nicolella, Associate Planner

Date: 8/29/2012

Re: Agenda Item 7A: For consideration, discussion, and possible recommendation to the Town Council regarding the violations, sanctions, and enforcement of the Conditional Use Permit (CUP) for the Windmill House.

AGENDA ITEM: 7A

AUGUST 7, 2012, COMMISSION PUBLIC HEARING RECOMMENDATION TO STAFF:

At the August 7, 2012, hearing the Commission continued the item until September 4, 2012, and stated that the CUP approved through Ordinance No. 11-754, needs to be amended to include "Site Performance Standards" which are enforceable by the Town of Chino Valley's Municipal Court. Staff was directed to work with the property owner, the potential tenant, and the neighbors to develop new criteria for the CUP.

The Commission stated that "Site Performance Standards", are the best way to protect the neighborhood from disturbances caused by activities at the Windmill House and will also allow Mr. Cordovana to operate as needed.

OTHER ISSUES FOR THE COMMISSIONERS' CONSIDERATION:

In the August 7th Commission Staff Report, Under Section J, the Commission was asked to consider the fact that, the property owner, Joseph Cordovana, Trustee of the LaVacara Family LLC, has not dedicated right-of-way (ROW) along the property's Road 4 North frontage. The ROW dedication was a condition of approval for the Windmill House CUP, which was approved on November 8, 2011.

In the report, staff stated that a new business license for the Windmill House cannot be issued until the Planning Department receives ROW dedication paperwork which satisfies the CUP's condition of approval relative to ROW dedication.

The Commission requested that the property owner submit ROW dedication paperwork for the September 4, 2012, hearing or the Commission will continue it again.

NEW INFORMATION FOR THE COMMISSIONERS' CONSIDERATION:

Since the August 7, 2012, Commission meeting, new facts have surfaced that affects staff's recommendation in regard to violations, sanctions, and enforcement of the CUP for the Windmill House. The facts are as follows:

On Thursday, August 16, 2012, Mr. Cordovana attended a meeting with Mayor Marley, the Town Manager, Robert Smith, and Associate Planner, David Nicolella, to discuss his obligation to dedicate ROW to the Town.

At the August 16th meeting, Mr. Cordovana stated that he would ***not*** fulfill the CUP's existing requirement to dedicate ROW, unless the Town processed a new rezoning application for him and the rezoning action was successful. Mr. Cordovana also provided a document stating that the Town should waive all fees for the rezoning application process and that once the rezoning was approved, only then would he dedicate the right-of-way to the Town.

On August 22, 2012, Town staff wrote a letter to Mr. Cordovana regarding the August 16th meeting and asked Mr. Cordovana to sign the letter which stated, ***"If you are unwilling to dedicate right-of-way, as you stated in the August 16th meeting, please sign this document indicating such. Once you sign this document the Town will begin the process of revoking Ordinance No. 11-754, and will cease Planning & Zoning Commission and Council activity related to the revision of the CUP."*** (Letter attached)

Mr. Cordovana was unwilling to sign the letter and requested Town staff to send it to him, via certified mail. Staff sent a certified letter and several days' later asked Mr. Cordovana if he signed the letter. Mr. Cordovana stated that he through the letter in the garbage.

Based on Mr. Cordovana's unwillingness to dedicate ROW, he is in non-compliance with the condition of approval relative to ROW dedication which was required through Ordinance No. 11-754.

Town staff is requesting that the Commission hear the matter and recommend to the Town Council that the CUP approved through Ordinance No. 11-754 be revoked. The Town Council shall thereafter determine whether to take action to revoke the CUP.

Attachments:

1. August 7, 2012, Commission Staff Report (Pages 1-5)
2. August 22, 2012, letter send to Mr. Cordovana via certified mail
3. Ordinance No. 11-754



PLANNING COMMISSION
STAFF REPORT

TOWN OF CHINO VALLEY, ARIZONA
AUGUST 7, 2012

1

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. NorthAR-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



ATTACHMENT





"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.





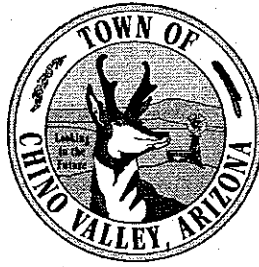
2. The Jehovah Witness Church Service. The complaint stated that the Jehovah Witness Church Service, which occurred at the Windmill House on April 5, 2012, was in violation of the CUP

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



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CHINO VALLEY, AZ 86323



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August 22, 2012

Joe Cordovana – Trustee of the LaVacara Family LLC
Address: PO Box 3150
Chino Valley AZ 86323

Regarding: The standing Conditional Use Permit (CUP) for the Windmill House

Dear Mr. Cordovana,

On Thursday, August 16, 2012, you attended a meeting with Mayor Marley; the Town Manager, Robert Smith; and Associate Planner, David Nicolella, to discuss your obligation to dedicate right-of-way to the Town. The dedication was required through the standing CUP for the Windmill House (Ordinance No. 11-754, approved on November 8, 2011).

In the August 16th meeting, you stated that you would **not** fulfill the CUP's existing requirement to dedicate right-of-way, unless the Town processed a new rezoning application for you and the rezoning action was successful. You also provided a document stating that the Town should waive all fees for the rezoning application process and that once the rezoning was approved, only then would you dedicate the right-of-way to the Town.

Unfortunately, the Town cannot fulfill your request. As a "condition of approval" Ordinance No. 11-754 requires the dedication of right-of-way and that dedication should have occurred prior to active use of the CUP. If you are unwilling to dedicate right-of-way, as you stated in the August 16th meeting, please sign this document indicating such. Once you sign this document the Town will begin the process of revoking Ordinance No. 11-754, and will cease Planning & Zoning Commission and Council activity related to the revision of the CUP.

Thank you,

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

I certify by my signature below that I will not dedicate the right-of-way that was required as a "condition of approval" in Ordinance No. 11-754. I also understand that failure to fulfill this condition of approval will invalidate the CUP and revoke Ordinance No. 11-754.

Joe Cordovana

ATTACHMENT

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;

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.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 8th day of November, 2011.

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Musgrove Drutz & Kack, P.C.
Town Attorney