



**CITY OF TWENTYNINE PALMS  
PLANNING COMMISSION STAFF REPORT**

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** September 16, 2009

**RE:** PC 09-61 (An amendment to Chapter 19.32 of the “Development Code” of the City of Twentynine Palms pertaining to the standards and criteria applicable to temporary Sidewalk Sales and Outdoor Displays.)

**RECOMMENDATION**

Conduct the Public Hearing, consider public comment and adopt PC Resolution 09-17 forwarding a recommendation that the City Council determine that PC 09-61 is Exempt from further environmental review and adopt the proposed changes to Chapter 19.32 of the “Development Code”.

**Attachment**  
**Draft PC Resolution No. 09-17**

**ORDER OF PROCEDURE**

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Open Public Hearing
- Receive Public Testimony
- Close Public Hearing
- Commission Discussion
- Motion/Second
- Discussion of Motion
- Call the Question (voice vote)

**PROJECT DESCRIPTION**

The City of Twentynine Palms Community Development Department is proposing to amend multiple Chapters of Title 19 “Development Code” of the City’s Municipal Code. The proposed amendments are detailed below and will be addressed separately under the “Analysis” segment of this report.

An amendment to Title 19 “Development Code” of the City of Twentynine Palms Municipal Code, Chapter 19.32 “Temporary Use Permits”, Section 19.32.060 “Approval Authority – Administrative Temporary Use Permit” regarding the standards and criteria applicable to temporary Sidewalk Sales and Outdoor Displays.

**BACKGROUND**

At its regularly scheduled meeting of August 18, 2009, the Commission reviewed Development Code Amendment “PC 09-51” pertaining to numerous amendments to various Chapters and Sections within the Development Code. At that meeting, the Commission removed consideration of Section 19.32.060 “Approval Authority – Administrative Temporary Use Permit” regarding the standards and criteria applicable to temporary Sidewalk Sales and Outdoor Displays, directing that this issue be returned at a future date as a separate Code Amendment.

## ANALYSIS

Currently, Section 19.32.060 "Approval Authority – Administrative Temporary Use Permits" paragraph "C" provides the City's standards allowing sidewalk and parking lot sales. This paragraph, in its entirety, states the following:

"C. Sidewalk or parking lot sales in commercially zoned districts not to exceed five (5) calendar days of operation in any calendar year".

This provision, however, provides no details, standards or requirements for these sidewalk or parking lot sales, except the five (5) day time limit. As any such sale could have impacts upon the site, other uses on the same property or the surrounding neighborhood, it is suggested that more declarative standards be placed within the Development Code. To this end, the material presented below is offered for Commission consideration as an amendment to paragraph "C". It is also noted that the material below as additional language from that presented on August 18<sup>th</sup> addressing such issues as parking lots sales where the vendor does not have a formal business on that property and allowances for outdoor sales of merchandise that may be hazardous to store indoors (for example propane tanks). The proposed additional material is illustrated below and underlined for ease of recognition.

Proposed Language:

C. Sidewalk or parking lot sales in commercially zoned districts not to exceed five (5) calendar days of operation in any calendar year *shall be subject to the following:*

1. *The merchandise on display, or for sale, shall be located outside of an enclosed building only during the business hours of the related or associated business. No merchandise shall be stored or displayed outdoors on a twenty-four (24) hour basis.*
2. *All merchandise displayed or made available outside an enclosed building shall consist of new items, collectables and/or antiques (as defined herein) and new hand-made crafts. No second-hand or previously used items (except antiques and collectables) shall be displayed or allowed for sale outside of an enclosed building. No items shall be displayed upon the ground, except those items which, by their nature (such as antique furniture), are too large or too heavy to be placed upon a display table.*
3. *All merchandise displayed or made available outside an enclosed building shall not obstruct the entrance/exit to the development or any building, drive isle, driveway, emergency isle or exit or required parking spaces. Said merchandise shall not be placed in or be allowed to damage or negatively impact landscaped areas on site.*
4. *All merchandise displayed or made available outside of an enclosed building shall not be placed in a manner so as to become a visual distraction to motorists or pedestrians using the public right-of-way, or interfere with traffic signals or controls.*
5. *The merchandise displayed or made available for sale outside an enclosed building shall not interfere with, or impede the flow of, pedestrian or vehicular traffic, on, within or through the site.*
6. *No items, or any portion of a displayed item, shall be placed in the public right-of-way.*
7. *An antique is defined as any hand made or manufactured product, such as an automobile, a work of art, piece of furniture, jewelry, clothing or decorative object, produced during or prior to World War II or which is indicative of a specific period of craftsmanship and design.*

8. *A collectible is any mass-produced product, no longer manufactured and of limited availability, such as coins, books, stamps, clothing, bric-a-brac, curios or similar objects, regardless of its age, which represents an earlier period, style or fad, and which, when originally produced, carried an inexpensive retail price but has taken on an intrinsic value greater than that original value and which continues to appreciate with time.*
9. *Second-hand merchandise pertains to any products, goods or items offered or displayed for sale or exchange to the general public which have been previously used by the seller or other(s) but which cannot be classified as antiques or collectibles.*
10. *For parking lot or sidewalk sales for a business or activity not a part of or associated with a permanent business located on the same property, said business or activity may be allowed with approval of an Administrative Temporary Use Permit and shall be subject to the same standards and criteria as other such sales as provided herein. A written, signed statement from the business and/or property owner of the property where said sale shall take place acknowledging the request for the temporary sale must be submitted with the Administrative Temporary Use Permit application.*
11. *At the time of review of the Administrative Temporary Use Permit application review, the Community Development Director shall determine the number, if any, and location of required temporary restroom facilities.*

The Commission may wish to provide guidance to staff relative to the size, type and duration of allowed signage for the above. For example, it is not unusual for short-term parking lot or sidewalk sales to utilize what are commonly referred to as “A-Frame” signs. These signs are currently not a permitted form of signage within the community and often are placed within the public right-of-way. If it is felt that signage above and beyond that currently addressed within the Code should be established, then the Commission may wish to consider allowing one or two “A-Frame” signs of not more than four feet in overall height and twelve (12) square feet maximum surface area, and located only upon the property with the sale, not upon any adjoining property or within any public right-of-way. Any such signage allowances should be placed in both the above paragraph and within an appropriate section of the Sign Code.

12. *A maximum of two (2) temporary, stationary or portable signs, of no more than four (4) feet in height or twelve (12) square feet in area, may be placed upon the property approved for a sidewalk or parking lot sale for the duration of the approved sale.*

An activity generally related to the above and which occurs from time to time in many areas of the community is the long-term outdoor display of merchandise for sale or rent. Currently the Development Code does not provide specific standards and criteria to allow or prohibit this activity. Because this practice can result in adverse impacts to a business, other activities on the same site or to a neighborhood in general (blocking private or public sidewalks, driveways or roads, blocking entrances or exits to other uses on a property, blocking/occupying required parking spaces or allowing the display of second hand items for sale, giving an appearance of clutter), this practice should either be defined as prohibited by the Code or specific standards and criteria should be established and adopted within the Code to protect the health, safety and general welfare of the community. To address this issue, the following Section 19.32.060 “Approval Authority - Administrative Temporary Use Permits”, paragraph “H” addressing Outdoor Displays is suggested for Commission consideration. (Current paragraph 19.32.060 “H” would be re-lettered to paragraph “I”.)

Proposed language:

- H. *Outdoor Displays, Sales and Uses shall be allowed under the following conditions and subject to Administrative Approval of a Temporary Use Permit or other approval as specified herein.*
1. *Purpose. The purpose of this Section is to allow outdoor displays, sales and uses in a state of compatibility with surrounding properties and to establish development standards to preserve the integrity of adjacent land uses, consistent with the goals, objectives and policies of the adopted General Plan.*
  2. *Outdoor Displays and Sales of Merchandise. All business shall be conducted completely within an enclosed building, except that the following outdoor sales and commercial activities may be permitted to operate outdoors, within their respective districts and subject to any required reviews and permits:*
    - a. *New and used automobile/vehicle sales and rental, subject to approval of a Conditional Use Permit.*
    - b. *Building material, supplies and equipment, rental and sales, subject to approval of a Conditional Use Permit.*
    - c. *Fruit and vegetable stands, subject to approval of a Peddling and Hawking Permit as described in Chapter 19.33 "Peddling/Hawking/Soliciting Permit".*
    - d. *Horticultural nurseries.*
    - e. *Outdoor recreation uses, see subparagraph 4, herein.*
    - f. *Parking lot and sidewalk sales, subject to approval of an Administrative Temporary Use Permit, see Code Section 19.32.060 "C" above.*
    - g. *Swap Meets (outdoor) subject to approval of a Conditional Use Permit.*
    - ~~h. *Farmer's Market*~~ **This material was removed to await further consideration on Farmer's Market from the Commission and Council.**
    - h. *The restrictions of this section shall not apply to the outdoor display and sale of merchandise that, due to their nature, may be hazardous to display or sell within an enclosed building as determined by the Community Development Director or to outdoor vending machines as determined and approved by the Community Development Director.*
  3. *Merchandise for sale or rent shall conform to the following:*
    - a. *The merchandise on display, or for sale, shall be located outside of an enclosed building only during the business hours of the related or associated business. No merchandise shall be stored or displayed outdoors on a twenty-four (24) hour basis.*
    - b. *All merchandise displayed or made available outside an enclosed building shall consist of new items, collectables and/or antiques (as defined herein) and new hand-made crafts. No second-hand or previously used items (except antiques and collectables) shall be displayed or allowed for sale outside of an enclosed building. No items shall be displayed upon the ground, except those items which, by their nature (such as antique furniture), are too large or too heavy to be placed upon a display table.*
    - c. *All merchandise displayed or made available outside an enclosed building shall not obstruct the entrance/exit to the development or any building, drive isle, driveway, emergency isle or exit or required parking spaces. Said merchandise shall not be placed in or be allowed to damage or*

- negatively impact landscaped areas on site.*
- d. All merchandise displayed or made available outside of an enclosed building shall not be placed in a manner so as to become a visual distraction to motorists or pedestrians using the public right-of-way, or interfere with traffic signals or controls.*
  - e. The merchandise displayed or made available for sale outside an enclosed building shall not interfere with, or impede the flow of, pedestrian or vehicular traffic, on, within or through the site.*
  - f. No items, or any portion of a displayed item, shall be displayed in the public right-of-way.*
  - g. The hours of operation may be restricted to ensure compatibility with adjacent uses and the surrounding neighborhoods.*
  - h. Public address systems shall not be used after 9:00 p.m. Sunday through Thursday and 10:00 p.m. on Friday and Saturday. Noise levels from the public address system shall not exceed sixty-five (65) dba at the property lines.*
- 4.** *As used herein, the following shall define antiques, collectibles and second-hand merchandise shall be that contained within Section 19.32.060 "Approval Authority – Administrative Temporary Use Permits" paragraph "C" herein.*
- 5.** *An Outdoor Display/Sales Permit shall not be approved for any applicant (whether individual, company or corporation), or at a location where the property owner, a tenant or lessee, has either of the following:*
- a. Any combination of two or more outstanding citations of the City of Twentynine Palms Municipal Code, or adjudicated citations found in favor of the City of Twentynine Palms by a court of competent jurisdiction, issued within the twenty-four (24) months preceding the proposed initiation date of the Outdoor Display/Sale listed upon the Outdoor Display/Sales Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed; or*
  - b. The individual, company or corporation listed as the applicant upon the Outdoor Display/Sales Permit application has, or where the property owner, a tenant or lessee, of the property listed upon the Outdoor Display/Sales Permit application as the intended site of the outdoor display and/or sale, has a Municipal Code violation(s) being processed by the City of Twentynine Palms or pending before a Court of competent jurisdiction and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed.*

### **CEQA Environmental Review**

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the project has been reviewed for its potential to impact the environment. It has been determined that the request being considered is a relatively minor change to the narrative of the City of Twentynine Palms Development Code that cannot, in and of itself, have an adverse impact upon the environment. Further, the change proposed shall not establish a land uses by "right-of-zone" that if established would have a negative impact upon the environment. Finally, as the proposal consists of a narrative change to the Development Code that cannot, in and of itself, negatively impact the environment, nor will it establish uses by right-of-zone that may negatively impact the environment, it can be seen with certainty that the proposed amendment

will not have an impact upon the environment and is, therefore, EXEMPT from further environmental review.

### **General Plan/Zoning Designations Citywide**

The proposed Development Code Amendment analyzed herein affect the land uses permitted within a variety of zones throughout the City of Twentynine Palms. The proposed Amendment does not establish new language within the Development Code that allows uses that are not already allowed within the various zoning districts of the City. With these facts in mind, it is noted that any change to the Development Code must be consistent with the Goals and Policies of the adopted General Plan.

For Commission consideration, it is suggested that the change proposed to the Development Code under this Amendment is consistent with the following Goals and Policies of the adopted General Plan. The proposed Amendment is consistent with the following Goals and Policies as the change will improve the livability of the City by making some commercial items more readily available (quality development standards and minimization of potential land use conflicts), control noise and traffic (outside display standards) and establish high quality land use standard (outdoor sales and signage standards) which minimize potential land use conflicts and impacts. Further, the proposed Amendment offers creative alternative development standards within the community (outdoor sales, displays and signage).

### **Land Use**

#### **Goal #1**

A Land Use Plan which provides a desirable City in which to live.

#### **Policy #1.1**

Traffic, noise and other impacts will be considered prior to any land use designation change and/or land use intensification.

#### **Policy #1.2**

Quality standards will be applied to all new developments.

#### **Policy 1.3**

Uses shall be located in a manner which will minimize conflict and mitigate impacts.

#### **Goal #5**

The City will be environmentally sensitive and all land uses shall minimize adverse environmental impacts and shall maintain and enhance existing natural resources.

### **Conservation**

#### **Goal #1**

The City of Twentynine Palms will be environmentally conscious in administering its responsibility to ensure that resources are protected.

#### **Policy #1.1**

Land use decisions by the City will consider long-term impacts to natural resources, and development will occur in a manner which does not unnecessarily damage or reduce the City's resources.

#### **Policy 1.2**

Intensity of development will occur in a manner which ensures environmental protection.

## **Noise**

### **GOAL #1**

Noise levels will be anticipated prior to the City taking actions on land use proposals and potential conflicts will be avoided so that noise levels will not exceed acceptable levels.

## **Safety**

### **Goal #1**

The City of Twentynine Palms will be a safe place to live and visit.

## **Site Characteristics**

The Code Amendment under consideration shall apply to a variety of commercial properties with a wide variety of site characteristics within commercial zones.

## **Findings**

Pursuant to Section 19.22.050 "Findings" of the City's Development Code, the Planning Commission is required to make four (4) Findings of approval prior to recommending that the City Council approve a Development Code Amendment. The following are the required findings followed by a comment to address each for Commission consideration.

- A. The Zone Change or Development Code Amendment is consistent with the intent of the goals and policies of the General Plan; and

Comment: The proposed amendment to the Development Code is consistent with the goals and policies of the adopted General Plan by improving the livability of the City by enhancing established high quality land use standard for new and existing uses within the community. Further, the proposed Amendment clarifies and addresses existing standards within the Development Code to assure high quality development within the community.

- B. The Zone Change or Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses; and

Comment: The proposed amendment to the Development Code will clarify and enhance existing commercial/outdoor display, sales and use standards further ensuring the compatibility of new development with existing uses.

- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and

Comment: The proposed Code Amendment will not alter development rights to existing land uses and although it will add requirements to some uses, these will not result in changes to the existing standards meant to protect environmentally sensitive land uses and species. As such the proposed Amendment will enhance the use of commercial properties within the community, assuring the provision of development rights, while continuing to protect environmentally sensitive land uses.

- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety, and welfare of the community

Comment: No changes are proposed under this Code Amendment that would reduce or compromise existing standards that protect the health, safety or general welfare of the

citizens, residents and visitors to the City of Twentynine Palms.

**Approval Process**

The Planning Commission is the Reviewing Authority for any amendment to the City's Development Code. If the Planning Commission's action is to adopt Resolution 09-17, it will be recommending that the City Council determine that the Amendment is Exempt from further environmental review, find that the proposed Amendment is consistent with the Goals and Policies of the City's adopted General Plan and adopt the proposed Amendment as detailed within the Commission Resolution.

CITY OF TWENTYNINE PALMS  
PLANNING COMMISSION  
RESOLUTION NO. 09-17

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, ADOPTING PC 09-61, AMENDING CHAPTER 19.32 OF THE "DEVELOPMENT CODE" PERTAINING TO THE STANDARDS APPLICABLE TO TEMPORARY SIDEWALK SALES AND OUTDOOR DISPLAYS.

**WHEREAS**, the City of Twentynine Palms General Plan was adopted by the City Council on April 12, 1988; and

**WHEREAS**, Title 19 (Development Code) of the Municipal Code of the City of Twentynine Palms was adopted by the City Council on April 12, 1988, and subsequently amended upon the recommendation of the Planning Commission; and

**WHEREAS**, on September 3, 2009, Development Code Amendment PC 09-61 was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms; and

**WHEREAS**, on September 16, 2009, the Planning Commission of the City of Twentynine Palms conducted a duly noticed and advertised Public Hearing on PC 09-61, an amendment to Chapter 19.32 of the "Development Code" of the City of Twentynine Palms, receiving testimony from the public and adopting Planning Commission Resolution No. 09-17 forwarding a recommendation to the Council to adopt the proposed Code Amendment; and

**WHEREAS**, based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposed Development Code Amendment, a narrative change to the Development Code that cannot, in and of itself, impact the environment, does not allow new uses by right-of-zone that may negatively impact the environment and as projects that may be proposed under the new language within the Code would be subject to appropriate environmental review at the time of its proposal, it can be seen with certainty that the proposed amendment will not have an impact upon the environment and is, therefore, EXEMPT from further environmental review; and

**WHEREAS**, the City Planning Commission finds on the basis of the whole record before it (including any comments received at the Public Hearing) that there is no substantial evidence that the project will have a significant effect on the environment and that the Determination of Exemption reflects the Planning Commission's independent judgment and analysis, and

**WHEREAS**, proposed Development Code Amendment PC 09-61 is consistent with the Goals and Policies of the City of Twentynine Palms General Plan and Title 9 (Development Code) of the Municipal Code of the City of Twentynine Palms and shall promote the health, safety and general welfare of the citizens of the Community; and

**WHEREAS**, the City Planning Commission in its review of the proposed Development Code Amendment PC 09-61 makes the following "Findings":

- A. The proposed amendment to the Development Code is consistent with the goals and policies of the adopted General Plan by improving the livability of the City by enhancing established high quality land use standard for new and existing uses within the community. Further, the proposed Amendment clarifies and addresses existing standards within the Development Code to assure high quality development within the community.
- B. The proposed amendment to the Development Code will clarify and enhance existing commercial/outdoor display, sales and use standards further ensuring the compatibility of new development with existing uses.
- C. The proposed Code Amendment will not alter development rights to existing land uses and although it will add requirements to some uses, these will not result in changes to the existing standards meant to protect environmentally sensitive land uses and species. As such the proposed Amendment will enhance the use of commercial properties within the community, assuring the provision of development rights, while continuing to protect environmentally sensitive land uses.
- D. No changes are proposed under this Code Amendment that would reduce or compromise existing standards that protect the health, safety or general welfare of the citizens, residents and visitors to the City of Twentynine Palms.

**NOW THEREFORE, THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA RECOMMENDS THAT THE CITY COUNCIL TAKE THE FOLLOWING ACTIONS:**

**Section 1.** Based upon the State Guidelines to Implement the California Environmental Quality Act (CEQA), by the nature of Development Code Amendment PC 09-61 it can be seen with certainty that the proposed amendment will not have an adverse impact upon the environment and, therefore, it is Exempt from further environmental review.

**Section 2.** That the City Council find that the proposed Amendment is consistent with the Goals and Policies of the City of Twentynine Palms adopted General Plan as the change will improve the livability of the City by making some commercial items more readily available (quality development standards and minimization of potential land use conflicts), control noise and traffic (outside display standards) and establish high quality land use standards (outdoor sales and signage standards) which minimize potential land use conflicts and impacts. Further, the proposed Amendment offers creative alternative development standards within the community (outdoor sales, displays and signage).

**Section 3.** That the City Council approves and adopts the Findings required for approval for a Development Code Amendment as set forth above.

**Section 4.** That the City Council of the City of Twentynine Palms amend Chapter 19.32 "Temporary Use Permits", Section 19.32.060 "Approval Authority – Administrative Temporary Use Permits" paragraph "C" to read as follows:

- C. Sidewalk or parking lot sales in commercially zoned districts not to exceed five (5) calendar days of operation in any calendar year shall be subject to the following:
  - 1. The merchandise on display, or for sale, shall be located outside of an enclosed building only during the business hours of the related or associated business. No merchandise shall be stored or displayed outdoors on a twenty-four (24) hour basis.

2. All merchandise displayed or made available outside an enclosed building shall consist of new items, collectables and/or antiques (as defined herein) and new hand-made crafts. No second-hand or previously used items (except antiques and collectables) shall be displayed or allowed for sale outside of an enclosed building. No items shall be displayed upon the ground, except those items which, by their nature (such as antique furniture), are too large or too heavy to be placed upon a display table.
3. All merchandise displayed or made available outside an enclosed building shall not obstruct the entrance/exit to the development or any building, drive isle, driveway, emergency isle or exit or required parking spaces. Said merchandise shall not be placed in or be allowed to damage or negatively impact landscaped areas on site.
4. All merchandise displayed or made available outside of an enclosed building shall not be placed in a manner so as to become a visual distraction to motorists or pedestrians using the public right-of-way, or interfere with traffic signals or controls.
5. The merchandise displayed or made available for sale outside an enclosed building shall not interfere with, or impede the flow of, pedestrian or vehicular traffic, on, within or through the site.
6. No items, or any portion of a displayed item, shall be placed in the public right-of-way.
7. An antique is defined as any hand made or manufactured product, such as an automobile, a work of art, piece of furniture, jewelry, clothing or decorative object, produced during or prior to World War II or which is indicative of a specific period of craftsmanship and design.
8. A collectible is any mass-produced product, no longer manufactured and of limited availability, such as coins, books, stamps, clothing, bric-a-brac, curios or similar objects, regardless of its age, which represents an earlier period, style or fad, and which, when originally produced, carried an inexpensive retail price but has taken on an intrinsic value greater than that original value and which continues to appreciate with time.
9. Second-hand merchandise pertains to any products, goods or items offered or displayed for sale or exchange to the general public which have been previously used by the seller or other(s) but which cannot be classified as antiques or collectibles.
10. For parking lot or sidewalk sales for a business or activity not a part of or associated with a permanent business located on the same property, said business or activity may be allowed with approval of an Administrative Temporary Use Permit and shall be subject to the same standards and criteria as other such sales as provided herein. A written, signed statement from the business and/or property owner of the property where said sale shall take place acknowledging the request for the temporary sale must be submitted with the Administrative Temporary Use Permit application.
11. At the time of review of the Administrative Temporary Use Permit application review, the Community Development Director shall determine the number, if any, and location of required temporary restroom facilities.
12. A maximum of two (2) temporary, stationary or portable signs, of no more than four (4) feet in height or twelve (12) square feet in area, may be placed upon the property approved for a sidewalk or parking lot sale for the duration of the approved sale.

**Section 5.** That the City Council of the City of Twentynine Palms amend Chapter 19.32 "Temporary Use Permits", Section 19.32.060 "Approval Authority – Administrative Temporary Use Permits" re-lettering paragraph "H" as "I" and inserting a new paragraph "H" to read as follows:

- H. Outdoor Displays, Sales and Uses shall be allowed under the following conditions and subject to Administrative Approval of a Temporary Use Permit or other approval as specified herein.
  1. Purpose. The purpose of this Section is to allow outdoor displays, sales and

uses in a state of compatibility with surrounding properties and to establish development standards to preserve the integrity of adjacent land uses, consistent with the goals, objectives and policies of the adopted General Plan.

2. Outdoor Displays and Sales of Merchandise. All business shall be conducted completely within an enclosed building, except that the following outdoor sales and commercial activities may be permitted to operate outdoors, within their respective districts and subject to any required reviews and permits:
  - a. Automobile/vehicle sales and rental, subject to approval of a Conditional Use Permit.
  - b. Building material, supplies and equipment, rental and sales, subject to approval of a Conditional Use Permit.
  - c. Fruit and vegetable stands, subject to approval of a Peddling and Hawking Permit as described in Chapter 19.33 "Peddling/Hawking/Soliciting Permit".
  - d. Horticultural nurseries.
  - e. Outdoor recreation uses, see subparagraph 4, herein.
  - f. Parking lot and sidewalk sales, subject to approval of an Administrative Temporary Use Permit, see Code Section 19.32.060 "C" above.
  - g. Swap Meets (outdoor) subject to approval of a Conditional Use Permit.
  - h. The restrictions of this section shall not apply to the display and sale of merchandise that, due to their nature, may be hazardous to display or sell within an enclosed building as determined by the Community Development Director or to outdoor vending machines as determined and approved by the Community Development Director.
  
3. Merchandise for sale or rent shall conform to the following:
  - a. The merchandise on display, or for sale, shall be located outside of an enclosed building only during the business hours of the related or associated business. No merchandise shall be stored or displayed outdoors on a twenty-four (24) hour basis.
  - b. All merchandise displayed or made available outside an enclosed building shall consist of new items, collectables and/or antiques (as defined herein) and new hand-made crafts. No second-hand or previously used items (except antiques and collectables) shall be displayed or allowed for sale outside of an enclosed building. No items shall be displayed upon the ground, except those items which, by their nature (such as antique furniture), are too large or too heavy to be placed upon a display table.
  - c. All merchandise displayed or made available outside an enclosed building shall not obstruct the entrance/exit to the development or any building, drive isle, driveway, emergency isle or exit or required parking spaces. Said merchandise shall not be placed in or be allowed to damage or negatively impact landscaped areas on site.
  - d. All merchandise displayed or made available outside of an enclosed building shall not be placed in a manner so as to become a visual distraction to motorists or pedestrians using the public right-of-way, or interfere with traffic signals or controls.
  - e. The merchandise displayed or made available for sale outside an enclosed building shall not interfere with, or impede the flow of, pedestrian or vehicular traffic, on, within or through the site.
  - f. No items, or any portion of a displayed item, shall be displayed in the

- public right-of-way.
- g. The hours of operation may be restricted to ensure compatibility with adjacent uses and the surrounding neighborhoods.
  - h. Public address systems shall not be used after 9:00 p.m. Sunday through Thursday and 10:00 p.m. on Friday and Saturday. Noise levels from the public address system shall not exceed sixty-five (65) dba at the property lines.
- 4. As used herein, the following shall define antiques, collectibles and second-hand merchandise shall be that contained within Section 19.32.060 “Approval Authority – Administrative Temporary Use Permits” paragraph “C” herein.
  - 5. An Outdoor Display/Sales Permit shall not be approved for any applicant (whether individual, company or corporation), or at a location where the property owner, a tenant or lessee, has either of the following:
    - a. Any combination of two or more outstanding citations of the City of Twentynine Palms Municipal Code, or adjudicated citations found in favor of the City of Twentynine Palms by a court of competent jurisdiction, issued within the twenty-four (24) months preceding the proposed initiation date of the Outdoor Display/Sale listed upon the Outdoor Display/Sales Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed; or
    - b. The individual, company or corporation listed as the applicant upon the Outdoor Display/Sales Permit application has, or where the property owner, a tenant or lessee, of the property listed upon the Outdoor Display/Sales Permit application as the intended site of the outdoor display and/or sale, has a Municipal Code violation(s) being processed by the City of Twentynine Palms or pending before a Court of competent jurisdiction and directly or indirectly related to, or similar to, any property, event, activity or use for which the Outdoor Display/Sales Permit application is proposed.

**Section 6.** Notice of Adoption. The Deputy City Clerk of the City of Twentynine Palms shall certify to the adoption of this resolution.

**Section 7.** Effective Date. This Resolution shall become effective upon its adoption.

**Section 8.** Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications and, to this end, the provisions of this Resolution are declared to be severable.

APPROVED AND ADOPTED THIS 16<sup>th</sup> DAY OF SEPTEMBER, 2009

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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Bill Easter, Chairman

ATTEST:

Jaqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 09-17 duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the 16<sup>th</sup> day of September, 2009 in Twentynine Palms, California.

Dated this 16<sup>th</sup> day of September, 2009.

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Jaqueline Palmer, Deputy City Clerk



**CITY OF TWENTYNINE PALMS  
PLANNING COMMISSION STAFF REPORT**

6136 Adobe Road  
Twentynine Palms, CA 92277  
(760) 367-6799 – Fax (760) 367-5400  
*commdev@ci.twentynine-palms.ca.us*

**To:** Planning Commission  
**From:** Community Development Director  
**Date:** September 16, 2009

**RE: PC 09-58** - An appeal of the Community Development Director's determination of the nonconforming status of the land use presently occupying the property located at 73441 Indian Trail, City of Twentynine Palms. The roughly 2.4 acre property is located along the south side of Indian Trail, approximately 1,715 feet west of the centerline of Adobe Road within the Residential, Rural Living One Unit Per Acre (RL-1) zoning district; RL-1; APN 0620-121-04.

**RECOMMENDATION**

Open the Public Hearing, consider staff comments and any public comments received and continue PC 09-58 to the next regularly scheduled Planning Commission meeting of October 6, 2009.

<p style="text-align: center;"><b>Attachment</b></p> <p>Letter from Mr. Hal Scott Clark agreeing to a continuance</p>
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**ORDER OF PROCEDURE**

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Open Public Hearing
- Receive Public Testimony
- Commission Discussion
- Motion/Second to Continue
- Discussion of Motion
- Call the Question (voice vote)

**PROJECT DESCRIPTION**

The owner of the property located at 73441 Indian Trail, City of Twentynine Palms (Ms. Judy Beltz), is appealing the determination of the Community Development Director that the "Portable toilet & Equipment storage yard" presently occupying the site was not properly established, which would then allow a determination that the land use is a legally established, pre-existing, nonconforming use of the property under Chapter 19.86 "Nonconforming Uses" of the City of Twentynine Palms Development Code.

**ANALYSIS**

In an effort to provide the Planning Commission with sufficient information to allow the Commission to make an informed decision on the matter at hand, staff has been examining and distilling a large volume of material associated with the property located at 73441 Indian Trail and the land uses located on that property. Staff, unfortunately, has been unable to complete this review, summation and analysis by the time needed to submit a Public Hearing report to the Planning Commission. Mr. Hal Scott Clark, representing the applicant, has been informed of this incomplete analysis and has agreed (see attached letter) to a continuance of this item to the next regularly scheduled Planning Commission meeting of October 6, 2009.

**Approval Process**

Under the provisions of Section 19.40.040 "Approval Authority", an "Action" by the Community Development Director may be appealed to the Planning Commission for action. In such situations, the Planning Commission is the Approval Authority unless their action is appealed to the City Council.

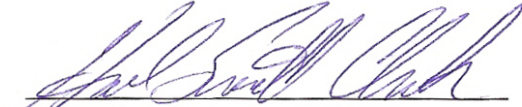
September 10, 2009

To: Twentynine Palms Planning Commission

From: Hal Scott Clark

Re. Request for continuance of Appeal Request

I have been advised by Charles LaClaire that the Staff Report for the Appeal I filed scheduled for the Planning Commission meeting of September 16, 2009 has not been completed as of 2:00 p.m. today. I request a continuance of the hearing until the next regularly scheduled Planning Commission to allow me time to review and respond to the report.

  
\_\_\_\_\_  
Hal Scott Clark

9-10-2009  
Date