



**CITY OF TWENTYNINE PALMS  
PLANNING COMMISSION STUDY SESSION REPORT**

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** March 3, 2010  
**For Commission Meeting of:** March 17, 2010 (Special meeting)

**Case:** PC 09-83 – A Development Code Amendment to consider adding a new Chapter 19.145 “Planned Unit Development” to the Development Code.

**RECOMMENDATION**

Conduct the Public Hearing, consider public comment and adopt PC Resolution 10-05 forwarding a recommendation that the City Council determine that PC 09-83 is Exempt from further environmental review and adopt the proposed change to Title 19 “Development Code” by the addition of a new Chapter 19.145 “Planned Unit Development”.

**Attachments**

Planning Commission Resolution  
10-05  
Minute Excerpt from Commission  
meeting of January 5, 2010  
Notice of Exception

**ORDER OF PROCEDURE**

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

**PROJECT DESCRIPTION**

PC 09-83 – A request to amend the Development Code by the addition of a new Chapter 19.145 “Planned Unit Development” within the Code, establishing the standards and criteria to process and consider an overlay which would allow a concentration/clustering of residential development within a defined and confined portion of a property within any residentially zoned district.

**BACKGROUND**

The Commission will recall that this item was continued from its regularly scheduled meeting of February 16, 2010 due to the review of the Downtown Economic and Revitalization Specific Plan and continued from the March 2, 2010 regularly scheduled meeting due to the last minute provision of additional material for Commission consideration. The material provided below is that provided within the March 2<sup>nd</sup> Public Hearing report, with the inclusion of the information provided on the dais at the hearing itself. It is also noted that at the March 2, 2010 Public Hearing, the Commission received comments from one member of the public on the proposed amendment. Although this individual was in favor of the basic concept of the amendment, it was requested that clarification be incorporated into the requirements specified on page 5 of 23, paragraph “F” regarding the requirement that infrastructure associated with the PUD must

conform to City requirements. Additionally, clarification was sought regarding which processing fees would apply to an application for a Planned Unit Development, as well as the two (2) year time frame applicable to a PUD being to short noting that due to the need to arrange financing, receive discretionary approvals and physically constructing a project, this would take more than two (2) years. Finally, a Commission member questioned whether properties must be contiguous to be included within a Planned Unit Development project/approval.

Within past Study Session (January 5, 2010) and Public Hearing (February 16, 2010) reports the Planning Commission was introduced to the theory of residential clustering under the Planned Unit Development concept. Within the staff report for that Study Session, it was noted that currently there are no provisions within the Development Code that would allow for the transfer of residential density between properties or to allow the concentration or clustering of allowed density within the confines of an individual property. As such, when a property owner wishes to develop his/her property, and where a subdivision of that property is involved, these individuals are restricted to dividing the land only to the minimum lot size defined within the Development standards of the individual zoning district within which the property is located. This requirement spreads both the costs and impacts of the division throughout the entire property (compared to a portion of the property).

It was also noted in the January Study Session that the City is presently processing a comprehensive update to the General Plan. During this process, attention has been focused upon the minimization of possible adverse impacts to, and preservation of, the community's desert environment. Several ways have been proposed to minimize these impacts, including, now, the concept of an Overlay District to allow clustered development.

Within the Commission's discussion of this topic, two primary goals were focused upon: 1) preservation of the desert environment (including view sheds, wildlife corridors and drainage systems by minimizing development within sensitive areas and minimizing the infrastructure needed to support that development); and, 2) the preservation of the development rights and opportunities of the individual property owners. Minimizing infrastructure includes such issues as minimizing the installation of roadways, driveways and utility lines/services. The preservation of the environment may include the preservation of desert view sheds, habitat corridors, drainage/flood ways, simply the preservation of open space by such requirements as the minimization of mass grading and even individual site grading. The preservation of property owner development rights and opportunities refers to preserving the area or site's overall density allowances.

The January 5, 2010 Study Session focused upon a common planning technique to accomplish the above by the use of a Planned Unit Development "Overlay". Such an overlay allows for the shifting or "clustering" of residential density (lots) within a limited area of an entire site, while not increasing the site's overall density and preserving the remainder of the site as open, un-impacted land area.

It is important to note that one very significant issue was not addressed in detail within the Commission's introduction to the PUD concept in January. That issue is that any Planned Unit Development standards that may be adopted and used by the City should clearly stress that any PUD overlay approval is not meant as a tool to reward property owners who may buy challenging/unusable land hoping to receive a PUD designation to gaining full credit for the otherwise unsuitable land. Without specific criteria to address this, any such PUD allowance may actually encourage people to buy less than prime properties (step hillsides, washes, land known to have fault lines and other environmentally sensitive constraints) simply to take advantage of the PUD Code clustering provisions, not to help preserve open space and/or pristine desert. Creation of a Development Code Chapter to establish PUD Overlay provisions

should incorporate specific limitations on the benefits derived (to the City) from including otherwise "limited use" property within the area calculated for density clustering.

## **ANALYSIS**

As noted within the Study Session report, to assist in the preservation of the community's natural environment and to conform to the Goals and Objectives of the current General Plan, as well as the proposed Guiding Principles for the Update to the General Plan, it is proposed that a new Chapter 19.145 "Planned Unit Development" be created. This overlay would establish the standards and criteria applicable to a property having a portion (or all) which would be considered environmentally sensitive or which has an important community aesthetic quality (ridgelines or view shed areas) to be preserved. Any such criteria created would limit which properties could apply for and receive the Overlay designation (those properties where such a designation would enhance the community as a whole, not simply make it less expensive for the owner to develop the property). Further, the remaining area not committed to development subject to the overlay must be deed restricted as a preserve or dedicated to an appropriate, City accepted habitat conservation organization, where development of the land would be permanently prohibited.

It can be seen that under favorable circumstances, there are benefits to both the City and property owner in the use of a Planned Unit Development overlay. Obviously, the property owner benefits by the shifting of development from a larger area (where environmental constraints may otherwise limit the potential of development) to a smaller area; which further reduces the owner's costs associated with the development by reducing the costs of mapping, infrastructure (roads and utilities) and grading. The community, additionally, benefits from reduced future roadway maintenance costs, and more importantly, the preservation of scenic vistas, the desert environment, habitat corridors, etc.

The Commission is reminded that in early December, staff requested information from other communities on their Planned Unit Development/cluster development standards. Responses to that request were attached to the January 5, 2010 Study Session report, which included an ordinance provided by an individual that works with a private consulting firm that has significant experience in this particular area and volunteered the information. Staff carefully reviewed these various materials and presented a compilation of the information modified to address the City of Twentynine Palms' local circumstances.

Before the Commission proceeds to the draft new language presented below (the same language presented within the January Study Session), two significant issues must be resolved. First, the previously proposed language specified that the land area proposed within a PUD that is to be left undeveloped "shall be deed restricted as a conservation area or preserve and be permanently held as a City approved and controlled habitat conservation area or dedicated to an appropriate, City accepted habitat conservation organization, where development of the land would be permanently prohibited" (Section 19.145.090 "Open Space Conservation/Preserve"). What is not addressed is what happens to this land if neither the City or a conservation organization is willing to take responsibility for this land. Language has been added to Section 19.145.090 "Open Space Conservation/Preserve" to require this commitment prior to the final recordation of a map approved with a PUD Overlay.

The second issue is how the City may prevent the PUD Overlay from rewarding property owners who may buy challenging/unusable land hoping to receive a PUD designation to gaining full credit for the otherwise unsuitable land. Specific criteria to address this should be created and such language is proposed below for Commission discussion and guidance to staff. This proposed language establishes a partial credit for Hillside areas based upon the percentage of slope, areas limited by known earthquake fault lines, stream beds, known washes and/or areas

identified upon the FEMA map as subject to flooding, and areas known or identified within the subdivision process to be “prime habitat” for any City, State or Federal rare or endangered species of plants or animals. Staff is requesting Commission input and guidance on this concept and the percentages being offered.

It is noted that additional changes to the proposed ordinance are also suggested below for review and consideration by the Commission. Also provided below is language to clarify the issues raised at the March 2, 2010 meeting. Regarding clarification of paragraph “F” addressing infrastructure requirements, it is suggested below that development within a PUD must conform to all City infrastructure standards. This is suggested as one of the fundamental advantages of the use of a PUD is to reduce the amount of infrastructure installed, thus an advantage to the owner in cost savings and the City in maintenance costs while still putting needed infrastructure in place. If a PUD is allowed to waive or defer its requirement for infrastructure within the PUD, the City receives no benefit to allowing the PUD. Regarding the applicable fee, staff suggests that as applications addressing the subdivision, a Development Code Amendment and a Conditional Use Permit would all apply, only the fees associated with the Subdivision Map and Conditional Use Permit (with related per acre fee) should apply. Additionally, as stated at the March 2, 2010 meeting, staff suggests that the provision for the PUD to be limited to a two (2) year time frame is appropriate for such approvals. It is imperative that anyone seeking approval of a Planned Unit Development be willing, able and prepared to immediately move forward with any approved project. Without such commitment to a development of the land, use of a PUD may only foster “speculative” development. This aside, the Commission may wish to consider establishing a longer expiration period, however staff discourages consideration of a length of over a total of four (4) years. Finally, language is suggested below that would clarify that non-contiguous properties cannot be included within a Planned Unit Development.

Language to address the questions and issues noted above are shown in ***bold and italics*** for additions and ~~double strike through~~ for deletions within the material below previously presented to the Commission for consideration.

## **Chapter 19.145 Planned Unit Development**

### **Sections:**

- 19.145.010 Purpose**
- 19.145.020 Objectives**
- 19.145.030 Standards for Planned Unit Developments**
- 19.145.040 Land with Physical, Environmental or Aesthetic Constraints/Limitations (Density Credit)**
- 19.145.050 Approval Procedures for Planned Unit Developments**
- 19.145.060 Submission Requirements**
- 19.145.070 Changes in the Planned Unit Development**
- 19.145.080 Revocation and/or Time Extension**
- 19.145.090 Findings of Fact and Conformity to Chapter**
- 19.145.100 Open Space Conservation/Preserve**
- 19.145.110 Approval Authority**
- 19.145.120 Conditions of Approval**

### **19.145.010 Purpose**

The purpose of the Planned Unit Development (PUD) regulations contained herein is to encourage more creative and imaginative design of land development than is otherwise possible under district zoning regulations by taking physical and environmental constraints into consideration. Planned Unit Development allows substantial flexibility in site and design

requirements in an effort to preserve, to the greatest extent possible, the natural/physical environment and conserve limited community resources. The intent of this flexibility is to achieve a development that is better planned, contains more amenities and ultimately, is more desirable to live in.

Any site considered for a Planned Unit Development must be found to have value as open space, potential wildlife habitat or of significant community value (such as a scenic vista) based upon one or more of the following considerations:

- A. Contiguous with Joshua Tree National Park or Marine Base;
- B. Identified as suitable habitat for a known threatened or endangered species of plant or animal;
- C. Identified as occupied habitat for a known threatened or endangered species of plant or animal;
- D. Contains permanent or semi-permanent wetlands, natural springs or forms a portion of a significant watercourse;
- E. Identified and accepted as a view shed or scenic vista within the community; or
- F. Does not adjoin developed, inhabited parcels on more than two (2) sides.

#### **19.145.020 Objectives**

Each Planned Unit Development should include features that are in substantial compliance with the following objectives:

- A. Allow for the design of developments that are architecturally and environmentally innovative;
- B. Achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls;
- C. Preserves, to the greatest extent possible, native vegetation and local habitats, respecting natural topographic and geologic conditions, and avoids adverse impact on soil, drainage, topography and natural land forms, habitat corridors and other natural ecologic conditions;
- D. Allow the integration of different land uses in an innovative and functionally efficient manner;
- E. Provide for abundant, accessible, and properly located, public open space and recreational amenities, private open space and recreational amenities, schools and other public and private facilities;
- F. Promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features, which minimize their physical impacts while maximizing the allocation of limited fiscal and natural resources for the community's benefit;
- G. Enable new land developments to be consistent, compatible and congruous with adjacent and nearby existing land developments;
- H. Ensure that new development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction;
- I. Ensure that areas within a Planned Unit Development that are not committed to development must be deed restricted as a preserve or dedicated to an appropriate, City accepted conservation organization, where development of the land would be permanently prohibited;
- J. The Planned Unit Development must be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions; and
- K. The proposed development of the site receiving the planned unit development overlay will be compatible with adjacent and nearby development and shall be designed to minimize visual impact.

### 19.145.030 Standards for Planned Unit Developments

Any proposed Planned Unit Development must meet the following standards:

- A. General Plan and Zoning. A Planned Unit Development must conform with the Goals, Policies and Objectives of the City's adopted General Plan and may only be located within the RL-1, RL-2.5, RL-5, RS-1, RS-E single-family residential zoning districts.
- B. Site and Ownership. The site of the Planned Unit Development must be under single ownership and/or unified control. If the site is over thirty (30) acres in size, the "conceptual plan" procedure, as set forth herein below, must be followed.
- C. The type of development permitted on the site receiving the Planned Unit Development approval shall be limited to physically separate, detached single-family dwellings on individually recorded lots;
- D. Compatibility. The uses permitted in any Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties, landforms or the environment. In addition, the Planned Unit Development shall not endanger the public health, welfare or safety, nor shall it substantially diminish or impair property values in the area/neighborhood within which it is to be located.
- E. Community Benefit. Any Planned Unit Development must be of a nature and character that is beneficial to both the area/neighborhood within which it shall be located and to the community as a whole, and contain the developmental design, land uses, physical features and amenities that are needed within the area of the proposed project.
- F. The site receiving the approval for a Planned Unit Development Overlay must **install all required** ~~be served by~~ infrastructure ~~that~~ **in conformance to all** ~~meets~~ City standards, as determined by the City Council in its review of the proposed Overlay. **Although "on-site" infrastructure shall be required, "off-site" infrastructure needed and associated with the development of property approved under a Planned Unit Development designation may be waived or deferred by formal action of the City Council if said waiving or deferral is of direct benefit to the City of Twentynine Palms.**
- G. Density. The net density of a site approved for a Planned Unit Development (in dwelling units) shall correspond to, and shall not exceed, the net density specified under the site's General Plan Land Use Designation and imposed by the underlying zoning district. The net density of the Planned Unit Development need not correspond with, but shall not be allowed to exceed, the site's net density as defined within the underlying zoning district, but instead should reflect that district's character while requiring development which is consistent, compatible and complementary to surrounding, existing development with regard to lot sizes, building types and architectural design.
- H. Density transfers. The above shall not be construed or taken to encourage or allow in any manner the transfers of residential density (allowed residential units) between two (2) or more properties, unless such properties are included within the overall area incorporated within the Planned Unit Development reviewed and approved by the City of Twentynine Palms. **If more than one property is considered under an application for a Planned Unit Development, said properties shall be physically contiguous to one another.**
- I. Minimum lot size. Within any residential Planned Unit Development, the minimum lot area per parcel shall be one (1) acre except where a PUD has development adjoining fifty percent (50%) or more of its perimeter. Where a PUD has development adjoining fifty percent (50%) or more of its perimeter, the minimum lot size shall be established by averaging the lot size of all residentially used or zoned properties within five hundred (500) feet of the perimeter of the proposed Planned Unit Development. Said average shall be rounded upward to the nearest one half acre to establish the minimum lot size within the adjoining PUD, but in no case shall a lot be smaller than one-half acre in size.

- J. **Discretionary Review Code Amendment.** *As required by the City's Development Code, applications for subdivision, a Development Code Amendment and Conditional Use Permit request shall be processed with any request for a Planned Unit Development application to identify such PUD designation upon the City's Official Zoning Map. Fees for the Development Code Amendment shall be waived with the submission of subdivision and Conditional Use Permit application fees.*
- K. Separation Distances Between Structures. The minimum horizontal distance between the buildings shall be a minimum of thirty (30) feet between structures for all single family-detached dwellings of one (1) to two and one-half (2 ½) stories in elevation.
- L. Yards. The required yards along the periphery of the Planned Unit Development shall be at least equal in width or depth to that of the adjacent zoning district, with the exception that buildings of more than twenty-four (24) feet in height shall provide a setback from any property line of not less than equal to the height of such buildings.
- M. Parking Requirements. Parking shall be provided in conformance with the regulations and requirements specified within Development Code Chapter 19.82 "Off-Street Parking and Loading Regulations" except that a minimum of a two (2) car garage shall be maintained at all times (garage conversions are prohibited unless replaced with another two {2} car garage).
- N. Traffic. Adequate provision shall be made to provide ingress and egress so designed as to minimize both internal and external traffic hazards and congestion.
- O. Design Standards (Subdivision). The provisions of the Subdivision Regulations, as provided within Chapter 19.94 "General Subdivision Provisions", shall be adhered to.
- P. Design Standards (Residential). The provisions as set forth herein shall be adhered to.
- Q. Project Amenities. The development project shall provide public benefit beyond that normally required of a similar development outside of an approved Planned Unit Development Overlay by the provision of such things as equestrian facilities, public open space, on and/or off site infrastructure improvements, public playgrounds, trails and other recreational facilities, or other exceptional public facilities to the satisfaction of the City Council as part of the review/approval process.
- R. Areas within a Planned Unit Development that are not committed to development must be deed restricted as a preserve or dedicated to an appropriate, City accepted habitat conservation organization, where development of the land would be permanently prohibited.

**19.145.040 Land with Physical, Environmental or Aesthetic Constraints/Limitations (Density Credit)**

Where land area within a proposed Planned Unit Development Overlay is limited or restricted in its potential use due to physical or environmental constraints, such as slopes, washes or flood zones, suspected and/or occupied wildlife habitat, scenic vista restrictions, etc., said land shall be credited with a portion of the underlying zoning designation's allowable density as follows:

<u>Physical, Environmental or Aesthetic Constraints/Limitations</u>	<u>Credit</u>
Potential threatened or endangered species (plant or animal) habitat:	50%
Known, occupied threatened or endangered species (plant or animal) habitat:	25%
Property within 500 feet of known or suspected Earthquake fault line:	50%
FEMA Flood Zone A, AE or AE:	50%
Property with average Hillside Slopes of 0 to 15%:	100%
Property with average Hillside Slopes of 15+ to 25%:	50%
Property with average Hillside Slopes above 25%:	25%
Identified Ridgelines (development prohibited on ridgeline itself):	50%

Where lands are in excess of 50% slope, such lands shall be assigned a slope of 50% for purposes of determining the average slope of the parcel.

Average slope shall be calculated by the following formula:

$$S = \frac{IL(0.00229)}{A}; \quad \text{where}$$

S = average natural ground slope of the total project area in percent.

I = the contour interval in feet. (For parcels 20 acres or larger, the maximum contour interval shall be forty {40} feet. For parcels of less than 20 acres, the maximum contour interval shall be ten {10} feet, unless the Director of Community Development finds a larger contour interval will provide reasonable accuracy for purposes of determining the average slope of the parcel under consideration.)

L = the total length of all contour lines within the total project, in feet.

A = the gross area of the project, in acres.

0.00229 = a constant used to convert square feet into acres.

The calculated average natural slope shall be rounded to the nearest whole number.

No cut or fill slopes shall be created which exceed thirty (30) feet vertical height, or four hundred (400) feet in horizontal length (except that slopes required for public streets may exceed 400 feet in length); except that the Planning Commission may permit slopes exceeding these dimensions where the slopes will be the result of earth contouring which the Commission finds will result in a natural appearance and will not create geological or erosion hazards.

All cut and fill slopes shall be contoured to present a natural appearance and shall be blended in with the natural grade, per a plan approved by the Director of Community Development or the Planning Commission when such grading is in conjunction with a Residential Unit Development.

#### **19.145.050 Approval Procedures for Planned Unit Developments**

Applications for Planned Unit Developments shall be processed as a Conditional Use Permit – Planned Unit Development and follow the processing procedures as detailed within Chapter 19.30 “Conditional Use Permits”. In addition to the Conditional Use Permit application, a Tentative Tract Map and Development Code Amendment shall be processed to illustrate the proposed subdivision of land under the Planned Unit Development and amend the City’s Official Zoning Map to illustrate the application and location of any approved Planned Unit Development.

The following are strongly encouraged prior to the official submittal of a Conditional Use Permit – Planned Unit Development/Development Code Amendment application to the City of Twentynine Palms:

- A. *Pre-Application Conference* - Prior to the filing of an application for a Conditional Use Permit - Planned Unit Development, the prospective applicant may request one (1) informal Development Review Committee meeting to discuss the development of the proposed Planned Unit Development site in conjunction with the adopted planning rationale and its compatibility with existing and anticipated land uses in the vicinity. The Pre-Application conference is not mandatory, however if requested the Conditional Use Permit “Pre-Application” fee, as establish by Council Resolution, shall be required.
- B. *Pre-Application Document Review* - Prior to the filing of an application for a Conditional Use Permit - Planned Unit Development, either before, after, or in lieu of the Pre-

Application Conference, all prospective applicants shall review copies of the Land Use Plan, the Zoning Map and the Planned Unit Development Sections of this Ordinance. The Plan shall be evaluated by the petitioner to determine the consistency of the proposal with the adopted planning rationale. The Zoning Map shall be reviewed to ascertain whether or not the proposal is likely to be compatible with existing and anticipated land uses in the vicinity of the proposal.

#### **19.145.060 Submission Requirements**

Applications for the Conditional Use Permit, Tentative Tract Map and Development Code Amendment associated with a request for a Planned Unit Development shall be submitted and processed in conformance to the procedures detailed within Chapter 19.30 "Conditional Use Permits", Chapter 19.22 "Zone Changes and Development Code Amendments" and 19.98 "Tentative Parcel and Tract Map Findings, Procedures and Requirements" respectively.

#### **19.145.070 Changes in the Planned Unit Development**

Each Conditional Use Permit - Planned Unit Development shall be developed strictly according to the approved Conditional Use Permit and the recorded Final Tract Map and all supporting documentation (including Conditions of Approval and Environmental approvals). The approved Conditional Use Permit and recorded Final Tract Map, and all supporting documents, together with all recorded amendments, shall be binding on the applicants, their successors, grantees, and assigns and shall limit and control the use of premises and location of structures in the Planned Unit Development project as set forth therein.

#### **19.145.080 Revocation and/or Time Extension**

A Conditional Use Permit - Planned Unit Development approval shall become null and void, and the property that is the subject of the Planned Unit Development shall thereupon revert to its original zoning district classification where said Planned Unit Development has:

- A. Received City Council approval and where the Tentative Tract Map of said Planned Unit Development, or the first phase of the Tentative Tract Map if construction is to take place in phases, has not been submitted to the Community Development Department for processing of the Final Tract Map approval within two (2) years from the date of original Council approval; or
- B. Received City Council approval and where the construction of said Conditional Use Permit - Planned Unit Development, as authorized by the issuance of a Building Permit and receipt and passage of the first required inspection associated with said Building Permit, has not begun within two (2) years after the date of original Council approval.
- C. ***The City Council may grant a maximum of two (2), one (1) year Time Extensions (under separate request and provision of needed information) if the applicant/owner of the approved Planned Unit Development can document that progress towards the development of the project is proceeding and that delays that may have occurred are outside of the applicant/owner's control. Said application for such Time Extension must be submitted and deemed complete prior to the expiration date of the original two (2) year Council approval. (This language is not recommended by staff, merely offered for Commission discussion.)***

To assure the community of the timely and appropriate dedication, conservation and preservation of any open space, conservation area or preserve established with a Tentative Tract Map approved under a Conditional Use Permit – Planned Unit Development, said Tentative Tract Map shall be subject to the time limitations noted above and the owner/developer/applicant of said property shall agree to waive the allowances ("Expiration and Extension") for Tentative Tract Maps established within Chapter 19.98 "Tentative Parcel and

Tract Map Findings, Procedures and Requirements” of this Code. Further, no “Time Extensions” of a Tentative Tract Map approved under a Conditional Use Permit – Planned Unit Development, shall be permitted, nor shall any “automatic” extension granted by the State for a Tentative tract Map under the provisions of the Subdivision Map Act be applied to a PUD within the City of Twentynine Palms.

#### **19.145.090 Findings of Fact and Conformity to Chapter**

In addition to the “Findings” required within Chapter 19.30 “Conditional Use Permits”, Chapter 19.22 “Zone Changes and Development Code Amendments” and 19.98 “Tentative Parcel and Tract Map Findings, Procedures and Requirements” for the Conditional Use Permit, Development Code Amendment and Tentative Tract Map approvals, the applicant shall provide, and the Planning Commission and City Council shall accept or reject, an articulation of how the proposed Conditional Use Permit – Planned Unit Development shall be in the public interest, including, but not limited to, the following:

- A. In what respects the proposal is consistent with the stated purpose of the Planned Unit Development regulations, the Objectives stated herein and the Goals and Policies of the adopted General Plan.
- B. The extent to which the proposed plan meets the standards and requirements of the underlying zoning district and the Planned Unit Development regulations as set forth herein.
- C. The extent to which the proposed Planned Unit Development departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, dimension, area, and use, and the reasons why such departures are deemed to be in the public interest.
- D. The method by which the proposed plan makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, the disposition of any open space established for the community good and furthers the amenities of light and air, recreation and visual enjoyment, as well as the preservation of the native environment and conservation of limited local resources.
- E. The relationship and compatibility of the proposed Planned Unit Development to the adjacent properties and neighborhood.
- F. The desirability of the proposed Planned Unit Development with regard to the physical development of the site, the community’s tax base and economic well-being of the City.

**Supporting Statement(s)** - To approve a Planned Unit Development Overlay application, the Planning Commission and City Council must make the above “Findings” in a positive manner. A written statement from the applicant addressing each of these points is required. ~~(please~~ **Written statements must** be thorough, but concise, ~~as your statements will~~ **and shall** become part of the official record and Agenda Report(s) for ~~your~~ any **Planned Unit Development** request).

#### **19.145.100 Open Space Conservation/Preserve**

As a requirement of the subdivision of any property approved under a Planned Unit Development, dedication of that portion of the Map restricted as undevelopable open space, conservation area or preserve shall be so noted and recorded upon the Final Map approved by the City Council as a lettered lot and the same shall be documented within the title of such property. Further, this lettered lot shall be deed restricted as a conservation area or preserve and be permanently held as a City approved and controlled habitat conservation area or dedicated to an appropriate, City accepted habitat conservation organization, where development of the land would be permanently prohibited. A commitment from the City to accept said lettered lot, or a binding written commitment from a City recognized habitat

conservation organization, shall be secured prior to the City Council's acceptance and approval of the Final Subdivision Map.

#### **19.145.110 Approval Authority**

Under the requirements of Section 19.40.040 D "Approval Authority Involving Multiple Actions", as a Planned Unit Development requires the processing of a Conditional Use Permit, Development Code Amendment and Tentative Tract Map, the City Council shall be the Final Authority to review and approve any Planned Unit Development request, following the receipt of a recommendation from the Planning Commission.

#### **19.145.120 Conditions of Approval**

In addition to any Conditions of Approval that may be imposed upon the Conditional Use Permit, Development Code Amendment and Tentative Tract Map, the City Council, upon receipt of a recommendation from the Planning Commission, may impose reasonable and appropriate conditions to assure and achieve the purposes of this Chapter and to support making the necessary "Findings" for approval.

#### **CEQA Environmental Review**

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the issue before the Planning Commission is consideration of an amendment to narrative of the Code which, by itself, cannot have a direct impact upon the environment. Any development which may arise from the change to the Code resulting from this amendment shall be subject to the requirements of the California Environmental Quality Act (CEQA) at the time the project is reviewed by the City. As such, 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 will modify a significant aspect of the potential to development land within the City of Twentynine Palms (potential to preserve significant portion of the natural desert environment) within every residential zoning district within the City of Twentynine Palms. The proposed amendment will establish new language within the Development Code that although it will not allow a land uses that is not otherwise already allowed within the residential zoning districts of the City, it would establish a procedure wherein the very nature of that permitted land use would change. 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 under this Code 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 enhancing the potential to protect the native desert environment, with the creation of new, higher quality development standards and thus assisting in the minimization of potential land use conflicts.

#### **Land Use**

##### **Goal #1**

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

##### **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.

## **Conservation**

### **Goal #1**

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

#### **Policy 1.2**

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

## **Safety**

### **Goal #1**

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

## **Site Characteristics**

The Code Amendments under consideration shall apply to a variety of residential zoned properties with a wide range of site characteristics, citywide.

## **Findings**

Pursuant to Section 19.22.050 "Findings" of the City's Development Code, the Planning Commission is required to make four (4) specific Findings of approval prior to recommending that the City Council approve a Development Code Amendment. The following are those 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.

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 both enhancing and improving the development standards applicable to residential developments, providing new opportunities to allow homes within the community while preserving the native desert environment.

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

Comment: The proposed amendment to the Development Code will establish new standards and criteria that will allow the development of residential homes within the community in a manner that assures that reasonable controls and standards are put into place to ensure compatibility with other established land uses as well as the undisturbed native, desert environment.

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

Comment: The proposed Code Amendment will alter existing development rights by establishing new standards and criteria within the Development Code to both promote residential development, while specifically preserving as much of the native desert environment as possible. The new standards and criteria are designed around the intent to protect environmentally sensitive land uses and species, while preserving landowner rights

to develop their property.

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

Comment: No change is proposed under the 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. Further, the proposed change would, in fact, enhance the City's efforts to preserve the native desert environment, indirectly protecting the general health, safety and welfare of the citizens, visitors and wildlife of the community.

### **Initiation Process**

Under the provisions of Chapter 19.22 "Zoning Changes and Development Code Amendments", the City may initiate a Development Code Amendment when it is believed that an amendment to the Code is warranted by changing circumstances within the community. At its Study Session of January 5, 2010, the Planning Commission initiated this Development Code Amendment to address alternative potential development within the City.

### **Approval Authority**

Under the requirements of Section 19.22.040 "Approval Authority and Notification", the Planning Commission is the "Review Authority" on any proposed Development Code Amendment, making recommendation to the City Council as the "Approval Authority".

CITY OF TWENTYNINE PALMS  
PLANNING COMMISSION  
RESOLUTION NO. 10-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL FIND THAT PC 09-83 IS EXEMPT FROM FURTHER ENVIRONMENTAL REVIEW AND AMEND TITLE 19 "DEVELOPMENT CODE" BY THE ADDITION OF A NEW CHAPTER 19.145 "PLANNED UNIT DEVELOPMENT" ESTABLISHING THE STANDARDS AND CRITERIA APPLICABLE THERETO.

**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 February 4, 2010, Development Code Amendment PC 09-83 was duly noticed in the Desert Trail, a newspaper of general circulation within the City of Twentynine Palms; and

**WHEREAS**, on February 16, 2010, March 2, 2010 and March 17, 2010, the Planning Commission of the City of Twentynine Palms conducted duly noticed and advertised Public Hearings on PC 09-83, a proposed amendment to Title 19 "Development Code" by the addition of a new Chapter 19.145 "Planned Unit Development", establishing the standards and criteria applicable thereto within all residential zoning districts within the City of Twentynine Palms; 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 by itself, cannot have a direct impact upon the environment. Any development which may arise from the change to the Code resulting from this amendment shall be subject to the requirements of the California Environmental Quality Act (CEQA) at the time the project is reviewed by the City. As such, 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 09-83 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 09-83 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 both

enhancing and improving the development standards applicable to residential developments, providing new opportunities to allow homes within the community while preserving the native desert environment.

- B. The proposed amendment to the Development Code will establish new standards and criteria that will allow the development of residential homes within the community in a manner that assures that reasonable controls and standards are put into place to ensure compatibility with other established land uses as well as the undisturbed native, desert environment.
- C. The proposed Code Amendment will alter existing development rights by establishing new standards and criteria within the Development Code to both promote residential development, while specifically preserving as much of the native desert environment as possible. The new standards and criteria are designed around the intent to protect environmentally sensitive land uses and species, while preserving land owners rights to develop their property.
- D. No change is proposed under the 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. Further, the proposed change would, in fact, enhance the City's efforts to preserve the native desert environment, indirectly protecting the general health, safety and welfare of the citizens, visitors and wildlife of the community.

**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 review of the proposal in conformance with the State Guidelines to Implement the California Environmental Quality Act (CEQA), Development Code Amendment PC 09-83, as an alteration in land use limitations which, by itself, cannot have a direct impact upon the environment. Any development which may arise from the change to the Code resulting from this amendment shall be subject to the requirements of the California Environmental Quality Act (CEQA) at the time the project is reviewed by the City. As such, 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.

**Section 2.** That the City Council find that the proposed Amendment is consistent with the adopted General Plan Goals and Policies as the change proposed under the Amendment will improve the livability of the City by enhancing the enforcement of existing high quality development standards and thus assisting in the minimization of potential land use conflicts.

**Section 3.** That the City Council approve and adopt 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 Title 19 "Development Code" of the City's Municipal Code by the addition of a new Chapter 19.145 "Planned Unit Development" within Title 19 "Development Code" to read as follows:

**Chapter 19.145  
Planned Unit Development**

**Sections:**

**19.145.010 Purpose**

- 19.145.020 Objectives**
- 19.145.030 Standards for Planned Unit Developments**
- 19.145.040 Land with Physical, Environmental or Aesthetic Constraints/Limitations (Density Credit)**
- 19.145.050 Approval Procedures for Planned Unit Developments**
- 19.145.060 Submission Requirements**
- 19.145.070 Changes in the Planned Unit Development**
- 19.145.080 Revocation and/or Time Extension**
- 19.145.090 Findings of Fact and Conformity to Chapter**
- 19.145.100 Open Space Conservation/Preserve**
- 19.145.110 Approval Authority**
- 19.145.120 Conditions of Approval**

**19.145.010 Purpose**

The purpose of the Planned Unit Development (PUD) regulations contained herein is to encourage more creative and imaginative design of land development than is otherwise possible under district zoning regulations by taking physical and environmental constraints into consideration. Planned Unit Development allows substantial flexibility in site and design requirements in an effort to preserve, to the greatest extent possible, the natural/physical environment and conserve limited community resources. The intent of this flexibility is to achieve a development that is better planned, contains more amenities and ultimately, is more desirable to live in.

Any site considered for a Planned Unit Development must be found to have value as open space, potential wildlife habitat or of significant community value (such as a scenic vista) based upon one or more of the following considerations:

- A. Contiguous with Joshua Tree National Park or Marine Base;
- B. Identified as suitable habitat for a known threatened or endangered species of plant or animal;
- C. Identified as occupied habitat for a known threatened or endangered species of plant or animal;
- D. Contains permanent or semi-permanent wetlands, natural springs or forms a portion of a significant watercourse;
- E. Identified and accepted as a view shed or scenic vista within the community; or
- F. Does not adjoin developed, inhabited parcels on more than two (2) sides.

**19.145.020 Objectives**

Each Planned Unit Development should include features that are in substantial compliance with the following objectives:

- A. Allow for the design of developments that are architecturally and environmentally innovative;
- B. Achieve better utilization of land than is possible through strict application of standard zoning and subdivision controls;
- C. Preserves, to the greatest extent possible, native vegetation and local habitats, respecting natural topographic and geologic conditions, and avoids adverse impact on soil, drainage, topography and natural land forms, habitat corridors and other natural ecologic conditions;
- D. Allow the integration of different land uses in an innovative and functionally efficient manner;
- E. Provide for abundant, accessible, and properly located, public open space and recreational amenities, private open space and recreational amenities, schools and other public and private facilities;

- F. Promote the efficient use of land resulting in networks of utilities, streets and other infrastructure features, which minimize their physical impacts while maximizing the allocation of limited fiscal and natural resources for the community's benefit;
- G. Enable new land developments to be consistent, compatible and congruous with adjacent and nearby existing land developments;
- H. Ensure that new development occurs at proper locations, away from environmentally sensitive areas, and on land physically suited to construction;
- I. Ensure that areas within a Planned Unit Development that are not committed to development must be deed restricted as a preserve or dedicated to an appropriate, City accepted conservation organization, where development of the land would be permanently prohibited;
- J. The Planned Unit Development must be sited, designed and constructed to avoid adverse effects upon environmentally sensitive areas both on and off site, such as disturbance of watercourses and hazardous geologic conditions; and
- K. The proposed development of the site receiving the planned unit development overlay will be compatible with adjacent and nearby development and shall be designed to minimize visual impact.

#### **19.145.030 Standards for Planned Unit Developments**

Any proposed Planned Unit Development must meet the following standards:

- A. General Plan and Zoning. A Planned Unit Development must conform with the Goals, Policies and Objectives of the City's adopted General Plan and may only be located within the RL-1, RL-2.5, RL-5, RS-1, RS-E single-family residential zoning districts.
- B. Site and Ownership. The site of the Planned Unit Development must be under single ownership and/or unified control. If the site is over thirty (30) acres in size, the "conceptual plan" procedure, as set forth herein below, must be followed.
- C. The type of development permitted on the site receiving the Planned Unit Development approval shall be limited to physically separate, detached single-family dwellings on individually recorded lots;
- D. Compatibility. The uses permitted in any Planned Unit Development must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties, landforms or the environment. In addition, the Planned Unit Development shall not endanger the public health, welfare or safety, nor shall it substantially diminish or impair property values in the area/neighborhood within which it is to be located.
- E. Community Benefit. Any Planned Unit Development must be of a nature and character that is beneficial to both the area/neighborhood within which it shall be located and to the community as a whole, and contain the developmental design, land uses, physical features and amenities that are needed within the area of the proposed project.
- F. The site receiving the approval for a Planned Unit Development Overlay must install all required infrastructure in conformance to all City standards, as determined by the City Council in its review of the proposed Overlay. Although "on-site" infrastructure shall be required, "off-site" infrastructure needed and associated with the development of property approved under a Planned Unit Development designation may be waived or deferred by formal action of the City Council if said waiving or deferral is of direct benefit to the City of Twentynine Palms.
- G. Density. The net density of a site approved for a Planned Unit Development (in dwelling units) shall correspond to, and shall not exceed, the net density specified under the site's General Plan Land Use Designation and imposed by the underlying zoning district. The net density of the Planned Unit Development need not correspond with, but shall not be allowed to exceed, the site's net density as defined within the underlying zoning district, but instead should reflect that district's character while requiring development which is consistent, compatible and complementary to surrounding, existing development with regard to lot sizes, building types and architectural design.

- H. Density transfers. The above shall not be construed or taken to encourage or allow in any manner the transfers of residential density (allowed residential units) between two (2) or more properties, unless such properties are included within the overall area incorporated within the Planned Unit Development reviewed and approved by the City of Twentynine Palms. If more than one property is considered under an application for a Planned Unit Development, said properties shall be physically contiguous to one another.
- I. Minimum lot size. Within any residential Planned Unit Development, the minimum lot area per parcel shall be one (1) acre except where a PUD has development adjoining fifty percent (50%) or more of its perimeter. Where a PUD has development adjoining fifty percent (50%) or more of its perimeter, the minimum lot size shall be established by averaging the lot size of all residentially used or zoned properties within five hundred (500) feet of the perimeter of the proposed Planned Unit Development. Said average shall be rounded upward to the nearest one half acre to establish the minimum lot size within the adjoining PUD, but in no case shall a lot be smaller than one-half acre in size.
- J. Discretionary Review. As required by the City's Development Code, applications for subdivision, a Development Code Amendment and Conditional Use Permit shall be processed with any request for a Planned Unit Development application to identify such PUD designation upon the City's Official Zoning Map. Fees for the Development Code Amendment shall be waived with the submission of subdivision and Conditional Use Permit application fees.
- K. Separation Distances Between Structures. The minimum horizontal distance between the buildings shall be a minimum of thirty (30) feet between structures for all single family-detached dwellings of one (1) to two and one-half (2 ½) stories in elevation.
- L. Yards. The required yards along the periphery of the Planned Unit Development shall be at least equal in width or depth to that of the adjacent zoning district, with the exception that buildings of more than twenty-four (24) feet in height shall provide a setback from any property line of not less than equal to the height of such buildings.
- M. Parking Requirements. Parking shall be provided in conformance with the regulations and requirements specified within Development Code Chapter 19.82 "Off-Street Parking and Loading Regulations" except that a minimum of a two (2) car garage shall be maintained at all times (garage conversions are prohibited unless replaced with another two {2} car garage).
- N. Traffic. Adequate provision shall be made to provide ingress and egress so designed as to minimize both internal and external traffic hazards and congestion.
- O. Design Standards (Subdivision). The provisions of the Subdivision Regulations, as provided within Chapter 19.94 "General Subdivision Provisions", shall be adhered to.
- P. Design Standards (Residential). The provisions as set forth herein shall be adhered to.
- Q. Project Amenities. The development project shall provide public benefit beyond that normally required of a similar development outside of an approved Planned Unit Development Overlay by the provision of such things as equestrian facilities, public open space, on and/or off site infrastructure improvements, public playgrounds, trails and other recreational facilities, or other exceptional public facilities to the satisfaction of the City Council as part of the review/approval process.
- R. Areas within a Planned Unit Development that are not committed to development must be deed restricted as a preserve or dedicated to an appropriate, City accepted habitat conservation organization, where development of the land would be permanently prohibited.

#### **19.145.040 Land with Physical, Environmental or Aesthetic Constraints/Limitations (Density Credit)**

Where land area within a proposed Planned Unit Development Overlay is limited or restricted in its potential use due to physical or environmental constraints, such as slopes, washes or flood

zones, suspected and/or occupied wildlife habitat, scenic vista restrictions, etc., said land shall be credited with a portion of the underlying zoning designation's allowable density as follows:

<u>Physical, Environmental or Aesthetic Constraints/Limitations</u>	<u>Credit</u>
Potential threatened or endangered species (plant or animal) habitat:	50%
Known, occupied threatened or endangered species (plant or animal) habitat:	25%
Property within 500 feet of known or suspected Earthquake fault line:	50%
FEMA Flood Zone A, AE or AE:	50%
Property with average Hillside Slopes of 0 to 15%:	100%
Property with average Hillside Slopes of 15+ to 25%:	50%
Property with average Hillside Slopes above 25%:	25%
Identified Ridgelines (development prohibited on ridgeline itself):	50%

Where lands are in excess of 50% slope, such lands shall be assigned a slope of 50% for purposes of determining the average slope of the parcel.

Average slope shall be calculated by the following formula:

$$S = \frac{IL (0.00229)}{A} ; \quad \text{where}$$

S = average natural ground slope of the total project area in percent.

I = the contour interval in feet. (For parcels 20 acres or larger, the maximum contour interval shall be forty {40} feet. For parcels of less than 20 acres, the maximum contour interval shall be ten {10} feet, unless the Director of Community Development finds a larger contour interval will provide reasonable accuracy for purposes of determining the average slope of the parcel under consideration.)

L = the total length of all contour lines within the total project, in feet.

A = the gross area of the project, in acres.

0.00229 = a constant used to convert square feet into acres.

The calculated average natural slope shall be rounded to the nearest whole number.

No cut or fill slopes shall be created which exceed thirty (30) feet vertical height, or four hundred (400) feet in horizontal length (except that slopes required for public streets may exceed 400 feet in length); except that the Planning Commission may permit slopes exceeding these dimensions where the slopes will be the result of earth contouring which the Commission finds will result in a natural appearance and will not create geological or erosion hazards.

All cut and fill slopes shall be contoured to present a natural appearance and shall be blended in with the natural grade, per a plan approved by the Director of Community Development or the Planning Commission when such grading is in conjunction with a Residential Unit Development.

#### **19.145.050 Approval Procedures for Planned Unit Developments**

Applications for Planned Unit Developments shall be processed as a Conditional Use Permit – Planned Unit Development and follow the processing procedures as detailed within Chapter 19.30 “Conditional Use Permits”. In addition to the Conditional Use Permit application, a Tentative Tract Map and Development Code Amendment shall be processed to illustrate the proposed subdivision of land under the Planned Unit Development and amend the City’s Official

Zoning Map to illustrate the application and location of any approved Planned Unit Development.

The following are strongly encouraged prior to the official submittal of a Conditional Use Permit – Planned Unit Development/Development Code Amendment application to the City of Twentynine Palms:

- A. *Pre-Application Conference* - Prior to the filing of an application for a Conditional Use Permit - Planned Unit Development, the prospective applicant may request one (1) informal Development Review Committee meeting to discuss the development of the proposed Planned Unit Development site in conjunction with the adopted planning rationale and its compatibility with existing and anticipated land uses in the vicinity. The Pre-Application conference is not mandatory, however if requested the Conditional Use Permit “Pre-Application” fee, as established by Council Resolution, shall be required.
- B. *Pre-Application Document Review* - Prior to the filing of an application for a Conditional Use Permit - Planned Unit Development, either before, after, or in lieu of the Pre-Application Conference, all prospective applicants shall review copies of the Land Use Plan, the Zoning Map and the Planned Unit Development Sections of this Ordinance. The Plan shall be evaluated by the petitioner to determine the consistency of the proposal with the adopted planning rationale. The Zoning Map shall be reviewed to ascertain whether or not the proposal is likely to be compatible with existing and anticipated land uses in the vicinity of the proposal.

#### **19.145.060 Submission Requirements**

Applications for the Conditional Use Permit, Tentative Tract Map and Development Code Amendment associated with a request for a Planned Unit Development shall be submitted and processed in conformance to the procedures detailed within Chapter 19.30 “Conditional Use Permits”, Chapter 19.22 “Zone Changes and Development Code Amendments” and 19.98 “Tentative Parcel and Tract Map Findings, Procedures and Requirements” respectively.

#### **19.145.070 Changes in the Planned Unit Development**

Each Conditional Use Permit - Planned Unit Development shall be developed strictly according to the approved Conditional Use Permit and the recorded Final Tract Map and all supporting documentation (including Conditions of Approval and Environmental approvals). The approved Conditional Use Permit and recorded Final Tract Map, and all supporting documents, together with all recorded amendments, shall be binding on the applicants, their successors, grantees, and assigns and shall limit and control the use of premises and location of structures in the Planned Unit Development project as set forth therein.

#### **19.145.080 Revocation and/or Time Extension**

A Conditional Use Permit - Planned Unit Development approval shall become null and void, and the property that is the subject of the Planned Unit Development shall thereupon revert to its original zoning district classification where said Planned Unit Development has:

- A. Received City Council approval and where the Tentative Tract Map of said Planned Unit Development, or the first phase of the Tentative Tract Map if construction is to take place in phases, has not been submitted to the Community Development Department for processing of the Final Tract Map approval within two (2) years from the date of original Council approval; or
- B. Received City Council approval and where the construction of said Conditional Use Permit - Planned Unit Development, as authorized by the issuance of a Building Permit and receipt and passage of the first required inspection associated with said Building Permit, has not begun within two (2) years after the date of original Council approval.

- C. The City Council may grant a maximum of two (2), one (1) year Time Extensions (under separate request and provision of needed information) if the applicant/owner of the approved Planned Unit Development can document that progress towards the development of the project is proceeding and that delays that may have occurred are outside of the applicant/owner's control. Said application for such Time Extension must be submitted and deemed complete prior to the expiration date of the original two (2) year Council approval.

To assure the community of the timely and appropriate dedication, conservation and preservation of any open space, conservation area or preserve established with a Tentative Tract Map approved under a Conditional Use Permit – Planned Unit Development, said Tentative Tract Map shall be subject to the time limitations noted above and the owner/developer/applicant of said property shall agree to waive the allowances (“Expiration and Extension”) for Tentative Tract Maps established within Chapter 19.98 “Tentative Parcel and Tract Map Findings, Procedures and Requirements” of this Code. Further, no “Time Extensions” of a Tentative Tract Map approved under a Conditional Use Permit – Planned Unit Development, shall be permitted, nor shall any “automatic” extension granted by the State for a Tentative tract Map under the provisions of the Subdivision Map Act be applied to a PUD within the City of Twentynine Palms.

#### **19.145.090 Findings of Fact and Conformity to Chapter**

In addition to the “Findings” required within Chapter 19.30 “Conditional Use Permits”, Chapter 19.22 “Zone Changes and Development Code Amendments” and 19.98 “Tentative Parcel and Tract Map Findings, Procedures and Requirements” for the Conditional Use Permit, Development Code Amendment and Tentative Tract Map approvals, the applicant shall provide, and the Planning Commission and City Council shall accept or reject, an articulation of how the proposed Conditional Use Permit – Planned Unit Development shall be in the public interest, including, but not limited to, the following:

- A. In what respects the proposal is consistent with the stated purpose of the Planned Unit Development regulations, the Objectives stated herein and the Goals and Policies of the adopted General Plan.
- B. The extent to which the proposed plan meets the standards and requirements of the underlying zoning district and the Planned Unit Development regulations as set forth herein.
- C. The extent to which the proposed Planned Unit Development departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, dimension, area, and use, and the reasons why such departures are deemed to be in the public interest.
- D. The method by which the proposed plan makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, the disposition of any open space established for the community good and furthers the amenities of light and air, recreation and visual enjoyment, as well as the preservation of the native environment and conservation of limited local resources.
- E. The relationship and compatibility of the proposed Planned Unit Development to the adjacent properties and neighborhood.
- F. The desirability of the proposed Planned Unit Development with regard to the physical development of the site, the community's tax base and economic well-being of the City.

**Supporting Statement(s)** - To approve a Planned Unit Development Overlay application, the Planning Commission and City Council must make the above “Findings” in a positive manner. A written statement from the applicant addressing each of these points is

required. Written statements must be thorough, but concise, and shall become part of the official record and Agenda Report(s) for any Planned Unit Development request.

#### **19.145.100 Open Space Conservation/Preserve**

As a requirement of the subdivision of any property approved under a Planned Unit Development, dedication of that portion of the Map restricted as undevelopable open space, conservation area or preserve shall be so noted and recorded upon the Final Map approved by the City Council as a lettered lot and the same shall be documented within the title of such property. Further, this lettered lot shall be deed restricted as a conservation area or preserve and be permanently held as a City approved and controlled habitat conservation area or dedicated to an appropriate, City accepted habitat conservation organization, where development of the land would be permanently prohibited. A commitment from the City to accept said lettered lot, or a binding written commitment from a City recognized habitat conservation organization, shall be secured prior to the City Council's acceptance and approval of the Final Subdivision Map.

#### **19.145.110 Approval Authority**

Under the requirements of Section 19.40.040 D "Approval Authority Involving Multiple Actions", as a Planned Unit Development requires the processing of a Conditional Use Permit, Development Code Amendment and Tentative Tract Map, the City Council shall be the Final Authority to review and approve any Planned Unit Development request, following the receipt of a recommendation from the Planning Commission.

#### **19.145.120 Conditions of Approval**

In addition to any Conditions of Approval that may be imposed upon the Conditional Use Permit, Development Code Amendment and Tentative Tract Map, the City Council, upon receipt of a recommendation from the Planning Commission, may impose reasonable and appropriate conditions to assure and achieve the purposes of this Chapter and to support making of the necessary "Findings" for approval.

**Section 5.** Notice of Adoption. The Deputy City Clerk of the City of Twentynine Palms shall certify to the adoption of this resolution.

**Section 6.** Effective Date. This Resolution shall become effective upon its adoption.

**Section 7.** 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 17<sup>th</sup> DAY OF MARCH, 2010.

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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Dan Mintz, Chairman

ATTEST:

Jaqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 10-05 duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the 17<sup>th</sup> day of March, 2010 in Twentynine Palms, California.

Dated this 17<sup>th</sup> day of March, 2010.

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Jaqueline Palmer, Deputy City Clerk

Minute Excerpt

**TWENTYNINE PALMS PLANNING COMMISSION  
SPECIAL MEETING  
CITY COUNCIL CHAMBER, 6136 ADOBE ROAD  
TWENTYNINE PALMS, CALIFORNIA  
TUESDAY, JANUARY 5, 2010  
6:00 P.M.**

**MINUTES**

**1.0 CALL TO ORDER-** Chair Caplinger called the meeting to order at 6:00 p.m.

**PLEDGE OF ALLEGIANCE-** Chair Caplinger led the Pledge of Allegiance.

**ROLL CALL-** The following Commissioners were present: Alderson, Easter, Mintz, Rinkes and Caplinger.

**SELECTION OF CHAIRMAN AND VICE CHAIR**

>>>>>>

**11.0 STUDY SESSION**

**11.1 PC 09-83** – A discussion as to whether the City should consider an amendment to Title 19 “Development Code” of the City of Twentynine Palms Municipal Code adding a new Chapter 19.145 “Planned Unit Development”, establishing the standards and criteria to process and consider an overlay which would allow a concentration/clustering of residential development within a defined and confined portion of a property.

Director LaClaire presented a staff report to the Planning Commission regarding PC 09-83.

Jay Corbin, Twentynine Palms, spoke in favor of the issue and said he hoped the Planning Commission moved forward with the item.

Commissioner Caplinger said he felt it would be great for a desert community like Twentynine Palms.

Chair Mintz said he thought the issue should be moved forward.

On a motion made by Commissioner Caplinger, seconded by Vice Chair Rinkes and carried with a 5-0 voice vote, the Planning Commission requested staff to proceed to a Public Hearing to formally consider the inclusion of a new Chapter 19.145 “Planned Unit Development” within the Development Code.

>>>>>>

**12.0 ADJOURNMENT-** Chair Mintz adjourned the meeting at 9:50 p.m. to a special meeting on January 13, 2010 at 4:00 p.m.

Respectfully Submitted,

Jacqueline M. Palmer, Deputy City Clerk



**Notice of Exemption**  
City of Twentynine Palms  
Community Development Department  
6136 Adobe Road  
Twentynine Palms, CA 92277  
(760) 367-6799 - Fax (760) 367-4890

To:  County of San Bernardino Clerk of the Board of Supervisors  
385 North Arrowhead Avenue 2<sup>nd</sup> Floor  
San Bernardino, CA 92415-0130

Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

**Project Title:** PC 09-83 - A Development Code Amendment to consider adding a new Chapter 19.145 "Planned Unit Development" to the Development Code.

**Project Location:** Applicable to all land use districts throughout the City of Twentynine Palms.

**Project Location (city and county):** Twentynine Palms, San Bernardino County

**Description of nature, purpose and beneficiaries of Project:** The proposal is an amendment to the Development Code of the City of Twentynine Palms, to add a new Chapter 19.145 "Planned Unit Development" to allow the clustering of residential units within environmentally sensitive areas of the community, establishing the standards and criteria applicable thereto.

**Public Agency approving Project:**  Twentynine Palms City Council  
 Twentynine Palms Planning Commission

**Name of Person Carrying Out Project:** Community Development Department

**Exempt Status (check one):**

- Ministerial (Sec. 15073)  
 Declared Emergency [Sec. 15071 (a)]  
 Emergency Project [Sec. 15071 (b) and (c)]  
 Categorical Type/Sec. 15301 and Sec 15332

As the proposal consists of a narrative change to the Development Code that under Section 15305 of the California Code of Regulations is considered a minor change to land use limitations which, by itself, cannot impact the environment, nor will the amendment establish a use permitted by "right-of-zone" that may negatively impact the environment, the amendment is EXEMPT from further environmental review.

For information, contact Charles K. LaClaire, Community Development Director, City of Twentynine Palms. (760) 367-6799

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Signature

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Date

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Community Development Director  
Title



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

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**To:** Planning Commission  
**From:** Community Development Director  
**Date:** March 4, 2010  
**For Council Meeting of:** March 17, 2010 (Special Meeting)

**Subject:** PC 09-75 – A Study Session to continue a discussion of an amendment to Chapter 19.58 “Telecommunications Facilities”, regarding antenna placement and Chapter 19.48 “Accessory Structures”, regarding sea-going cargo containers.

**RECOMMENDATION**

Conduct the Study Session, consider public comment, provide guidance to staff on the issue of sea-going cargo container placement in industrial areas within the City of Twentynine Palms and direct that staff set a public hearing date for the possible Code Amendment.

**ORDER OF PROCEDURE**

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Receive Public Testimony
- Commission Discussion/Guidance to Staff
- Motion/Second to set hearing date
- Discussion of Motion
- Call the Question (roll call vote)

**PROJECT DESCRIPTION**

A Study Session to discuss the possible amendment of Chapter 19.48 “Accessory Structures”, Section 19.48.050 “Accessory Uses in Industrial Districts” of the Development Code regarding the standards and criteria applicable to “sea-going cargo containers and similar storage devices” within industrially zoned areas.

**Background:**

The Planning Commission is familiar with these issues as it had reviewed PC 09-75 at its regularly scheduled meeting of January 5, 2010. At that meeting, the Commission forwarded a recommendation that the City Council amend the Development Code as was illustrated within Planning Commission Resolution 09-26. At its regularly scheduled meeting of February 23, 2010, the City Council considered PC 09-75, the Commission’s recommendation and input from the public and, following discussion, remanded the proposal back to the Planning Commission for further consideration. It is noted that the Council did not comment upon the proposed change to the standards and criteria pertaining to cellular communications facilities, the Council’s principle focus in remanding PC 09-75 back to the Commission dealt with the sea-going cargo containers aspect of the amendment.

At its meeting of February 23, 2010, the Council received input from Mr. Frank Thomas, a local business owner, who commented that he was in favor of the proposed change to allow sea-

<b>Attachment</b>
<b>None</b>
<b>Copies of the January 5<sup>th</sup> Planning Commission or February 23<sup>rd</sup> City Council Public Hearing reports available upon request.</b>

going cargo containers to be mobile, but suggested that requiring a Conditional Use Permit to allow such containers, mobile or not, was not necessary within the Industrially zoned areas. Alternatively, Mr. Thomas suggested that the City could simply provide an exemption to the CUP requirements for auto dismantling facilities. Councilmember comments questioned the City's need for cargo containers obtaining a Conditional Use Permit, or even a Building Permit, within the Industrially zoned areas. Although concern was noted over owners who may not conforming to the requirements, comments were made that the City has Code Enforcement Officers to address that type of problem. It was further commented that the City could allow an administrative (staff) review or use of cargo containers in industrial areas (with standards put in place to address the containers physical condition such as whether they are painted or in a state of disrepair, their allowed height, stacking, maximum size, total number on a site, mobility, etc.). Council members expressed concern that the City is establishing standards that are an intrusion upon small businesses within the community.

In remanding the issue back to the Planning Commission for further consideration, staff assumes that the Council would like the Commission to reconsider the appropriateness of requiring a Conditional Use Permit for the placement of sea-going cargo containers within industrially zoned and/or industrially use properties, whether mobile or stationary. Questions could also be raised that the Commission may wish to address with regard to whether such containers should be allowed within other zoning districts, such as General Commercial or Service Commercial, whether a Building Permit should always or never be required, should a foundation or other surface be required, should any discretionary review be required at all, should there be a maximum number allowed on any one property, shall containers be completely screened from view from any adjoining properties or the public right-of-way, can containers be stacked, what level of physical condition should be required (doors must be in place, painted, free from rust and no obvious physical damage/dents, etc.), must all features of the container be in good working order (such as the doors), should there be a standard setback from any property line (possibly if the adjoining property is a differing zone or used for residential purposes), should utility hock-ups be allowed, will there be sound limits applied (to prevent common noises associated with striking the sides of a metal container), can a trailer buried past its axles/or with axles removed be considered a cargo container, can such containers be rented to a person not associated with the business on site, and can such containers be used for habitable purposes (office space, changing room or break room)?

#### **Analysis:**

##### Cell Tower Amendment

As noted above, the Council, at its February 23<sup>rd</sup> meeting, did not request further Commission review of the cellular communications issue and, thus, no analysis of that issue is provided herein. Staff will include the language previously approved by the Commission when a recommendation on PC 09-75 is eventually forwarded to the City Council for final action.

##### Industrial Zone Cargo Container Standards/Criteria Amendment

As the Commission is aware, currently sea-going cargo containers and similar storage devices are allowed within most zoning districts within the community. Specifically, Chapter 19.48 "Accessory Structures", Section 19.48.050 "Accessory Uses in Industrial Districts" establishes the current standards and criteria for the placement of these containers and storage devices within industrially zoned areas. As previously discussed, the question at hand is what standards should be applicable to the use of such containers and/or should new standards and criteria be considered and applied to their use within the community to continue the City's efforts art being business friendly. To address this, staff requests that the Commission consider and discuss the following questions, providing guidance to staff for possible future Code Amendment language. (Obviously the Commission may add any additional information or questions that it feels are

appropriate in this discussion. Further, the Commission may review the issue and determine that the language originally forwarded on January 5, 2010 was appropriate and again forward that same language to the Council for final action.)

As with other issues addressed by the Commission, staff requests discussion and guidance on the following, suggesting that the Commission discuss each in turn, giving a consensus for each question.

1. Within which zoning districts should sea-going cargo containers be allowed:  
  
Any/all Residential zoning districts;  
Neighborhood Commercial;  
Tourist Commercial;  
Office Commercial;  
Service Commercial; or  
Community Industrial?
2. Should each such district have its own standards (i.e., a CUP or Minor CUP in some zones, but no requirements in other zones)?
3. Should such containers be required to be affixed to the ground or allowed to be mobile?
4. Whether affixed or mobile, should a permanent, impermeable surface be required to place the container upon?
5. Whether mobile or affixed, should a Building Permit be required?
6. If mobile, shall the containers require the installation of skids?
7. If a Building Permit is not required, should another type of City inspection be required of an installed container (to assess its physical condition)?
8. Should any type of discretionary review (Commission Site Plan Review, Administrative Site Plan Review, Minor Use Permit or Conditional Use Permit) be required for the placement of the containers?
9. Should a maximum number of sea-going cargo containers be established?
10. Should such limitation be based upon zone or size (per acre allowance) of the requesting property?
11. Will containers of differing size be addressed differently (a ten {10} by twelve {12} differently than a ten {10} by forty {40}) under the Code?
12. Should all such installed containers be “appropriately” screened from view from all adjoining properties and public rights-of-way?
13. What will constitute appropriate screening: landscaping, solid walls, fencing with slats, buildings on site or physical features of the property (landforms)?
14. Will containers be allowed to be stacked one on top of the other, or should there be a height limit to such stacking?
15. What level of physical condition will be acceptable; must each container have functioning

doors, must it be completely painted, must the container be free from rust and no obvious physical damage/dents, etc.?

16. Should a standard, minimum required setback from any property line be established?
17. Should a standard, minimum required setback from any property line adjoining a differing or residential zoning district be established?
18. Should a standard, minimum required setback from any property line adjoining a property used for residential purposes whether so zoned or not be established?
19. Should any such cargo container be allowed to be connected to any utilities (water, electric, gas, cable, etc.)?
20. Shall sound limit restrictions be created and applied to prevent common noises associated with striking the sides of a metal container?
21. Will a trailer be considered similar to a cargo container if it is physically modified to either removed the axles and associated hardware, or buried/anchored into the ground so as to have the base of the trailer be level with the adjoining ground level?
22. Shall rental/lease or other exchange mechanism be allowed so that a container would be available for individuals or uses not associated with the primary business on site?
23. Will the sea-going cargo containers be allowed to be used for purposes other than storage, such as habitable purposes (office space, changing room or break room)?
24. Under what circumstances, if any, can a sea-going cargo container be considered a primary use of a property?

Depending upon the guidance given from the questions above, standards and criteria could be created that, for example, would allow a certain number of containers per acre, without discretionary review, provided they are in good working order, not stacked, located at least “X” feet from any property line and “Y” feet from any property line adjacent to a residentially zoned or used property, and said container is not used for habitable purposes nor connected to any utilities. With sufficient, clear standards in place, discretionary review would not be necessary, and enforcement of the standards would be handled administratively through Code Enforcement efforts. Such standards and criteria could be considered more “business friendly” than current restrictions and requirements.

It is noted that under the current provisions of the Development Code, the Planning Commission must review container requests under the requirements of a Minor Use Permit for a container or containers with a collective total square footage of 200 square feet or less, and a Conditional Use Permit where the collective total exceeds 200 square feet. Staff’s current interpretation of the Code is that Section 19.48.050, Subsection “D”, paragraph 3 requires that all storage devices/containers be affixed to the ground on a permanent foundation and as such, the Commission may not allow containers to be movable. Although the Commission agreed at its January 5<sup>th</sup> meeting with staff’s interpretation of the Code, it also accepted that allowances could be established under either the MUP or CUP review process. Under either review, the Planning Commission has the opportunity to consider the location of the container(s), their potential visual and aesthetic impacts and condition any approval to mitigate any identified impacts. Such Conditions of Approval may include prohibiting the movement of containers around a site, if allowing such mobility would cause circumstances that result in adverse impacts to surrounding properties or the community in general. Alternatively, Conditions of

Approval could be applied by the Commission that would allow mobility, but assure that any such movement would still result in container placement with appropriate setbacks from property lines, screening, coloration, habitation and mitigation of possible adverse impacts to surrounding properties or the community in general.

### **CEQA Environmental Review**

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Study Session to gather information about a topic for a possible future project (in this instance a Code Amendment) is not considered a “project” under Article 19 “Categorical Exemptions”, Section 15306 “Information Collection” and, therefore, is not subject to further environmental review.

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

Any proposed Development Code Amendment must conform to the Goals and Policies of the City’s adopted General Plan. When the Commission forwards its recommendation to the City Council, staff shall provide (within the Public Hearing report) Goals and Policies from the adopted General Plan along with a statement as to how the proposal shall be consistent with said Goals and Policies.

### **Site Characteristics**

The Code Amendment under consideration may apply to a variety of properties with a wide range of site characteristics, citywide.

### **Findings**

Pursuant to Section 19.22.050 “Findings” of the City’s Development Code, both the Planning Commission and City Council are required to make four (4) “Findings” of approval prior to recommending or adopting a Development Code Amendment. As the current review is a Study Session, the required Findings are not provided or addressed. When a Public Hearing report is presented to the Commission at a Public Hearing, that report shall contain the required findings followed by a comment to address each for consideration and recommendation by the Commission.

### **Approval Process**

As the request is for the Planning Commission to conduct a Study Session to consider the sea-going cargo container issue and provide guidance to staff for a future Development Code Amendment, no Reviewing or Approval Authority is applicable. With guidance from the Commission, staff shall return to the Planning Commission at an advertised Public Hearing, requesting that the Commission forward specific language to the City Council for final action regarding both the Cellular Towers within Residential Zoning Districts and the Sea-going Cargo Container issues.