



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

6136 Adobe Road  
Twentynine Palms, CA 92277  
(760)367-6799 – Fax (760) 367-5400

**To:** Planning Commission  
**From:** Community Development Director  
**Date:** March 10, 2011

**For Commission Meeting Of:** March 15, 2011

**SUBJECT:** PC 10-73 - An application from Lan T. Nguyen for a Site Plan Review to convert the existing residential structure located at 3733 Adobe Road into a commercial use (barber shop).

**RECOMMENDATION:** Conduct the Public Hearing, consider public comment, find the project Categorically Exempt pursuant to CEQA and adopt Planning Commission Resolution No. 11-03 approving the Site Plan Review, subject to the attached Conditions of Approval.

**BACKGROUND:** The applicant proposes to convert the existing residence (3733 Adobe Road; APN 0621-261-17; SECTION 9; T1N, R9E), built in 1944 and which consists of 918 square feet of residential living area and 136 square feet of porch area. The applicant proposes to add approximately 80 square feet of new commercial area with the conversion, creating an overall total of 1,134 square feet of area for use as a barber shop. The project site is located within the General Commercial (CG) land use district and will require modifications to the residential property for conversion to a commercial site. The applicant will be required to install curb, gutter, sidewalk and connecting pavement to meet the street standard established in the General Plan Circulation Element for Adobe Road (an Expressway). In addition, pursuant to Development Code 19.10 "Commercial Districts", the installation of enhanced driveway entry treatments, installation of parking lot improvements for the commercial use, installation of landscaping upon the project site and handicap accessibility to the site (per California Building Codes) shall be required.

Attachments
1. Resolution 11-03
2. Attachment "A" Conditions of Approval
3. Aerial Photo Vicinity Map
4. Site Plan
5. MCAGCC Letter

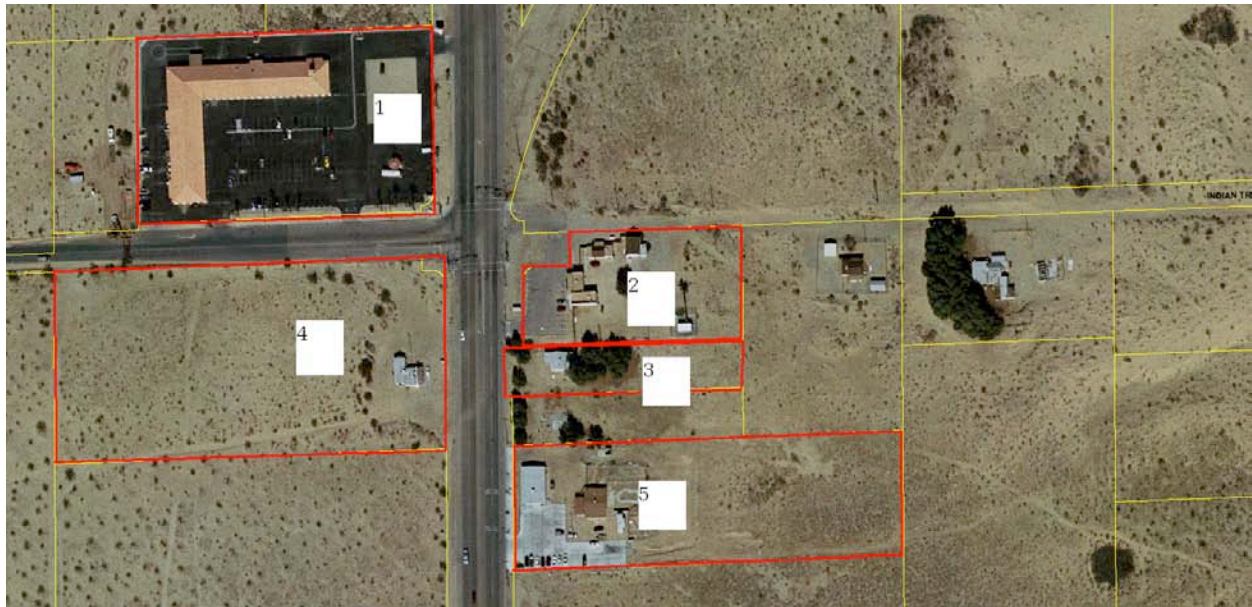
**Surrounding Land Use, General Plan and Zoning Designations**

	Land Use	General Plan	Zone
Site	Residential Home	CG	CG
North	Commercial / Barber Shop	CG	CG
East	Vacant	CG	CG
South	Commercial / Barber Shop, Car Stereo Shop, Vehicle Sales/ Residential	CG	CG
West	Commercial / Barber Shop	CG	CG

**Currently Licensed Barber Shops and Locations**

1	3668 Adobe Road, Ste. L (See location map below)	Happy Barber
2	3713 Adobe Road (See location map below)	29 Palms Barber

3	3733 Adobe Road – Pending this application	Combat Barber Razorcut
4	3744 Adobe Road (See location map below)	Alex's Barber
5	3787 Adobe Road (See location map below)	Marine Hair Cut
6	4890 Adobe Road	Stud Cuts
7	5712 Adobe Road	Combat Barber and Hair Styling
8	5758 Adobe Road #B	Deuce 9 Barbers
9	5777 Adobe Road	Cuts International by Bessie
10	5929 Adobe Road	29 The Regulation
11	5984 Adobe Road	Express Barber and Beauty
12	6375 Adobe Road	American Military Barber
13	73636 Twentynine Palms Highway	Barber Judi



**Site Characteristics**

The Site Plan Review proposed under this proposal is located upon a property that is 0.62 acres in size, a deep rectangular shape, relatively flat topography and occupied by an approximately seventy (70) year old residential structure and native desert vegetation. No unique or unusual physical features or aspects of the property are apparent.

**Project Analysis**

Currently, the 0.62 acre home site is located within the General Commercial (CG) land use district. The applicant proposes to change the land use from the current residential use to a commercial use (a barber shop). The land use to the north is a commercial barber shop, south is residential and a commercial barber shop, stereo shop and vehicle sales, to the west is a commercial barber shop and east is vacant land. Zoning surrounding the site is General Commercial. The structure was built in 1944 as a single-family residence and does not conform to current commercial land use district standards required by Development Code Chapter 19.10 “Commercial Districts” with regard to parking, setbacks, landscaping and street improvements. Further, the structure does not conform to current Uniform Codes (Building, Electrical, Plumbing, Mechanical and Fire). Any conversion of the structure originally built as a residence would require physical modifications to the structure to bring it into conformance with these Uniform Codes.

The submitted site plan illustrates that the proposal shall conform to Code Section 19.10.030 "Development Standards" with regard to lot dimensions, lot width to length ratio, maximum lot coverage, maximum building height and front/side/rear setbacks. Further, approval of the site for a commercial use shall require the applicant to conform to the **minimum design standards** (Code Section 19.10.040 "Design Standards") established within the Development Code for the General Commercial land use district as follows:

### **Design Standards.**

- A. A Desert Southwest theme is encouraged where possible. A modern building design may be acceptable where the Desert Southwest theme is not feasible and the proposed design will not detract from or conflict with the established theme of the neighborhood.
- B. Landscaping reflecting a desert theme, including use of drought resistant plants is encouraged. Those portions of the front setback area not improved with drive isles, walls, signage or similar features shall be landscaped using either locally adaptable drought-tolerant plants, complimented where necessary with a drip irrigation system; or decorative rock, gravel, bark or sand, or a combination thereof; provided, however, that some live plant material must be provided in all landscaped areas."
- C. All driveway entries on Twentynine Palms Highway and Adobe Road shall have enhanced entry treatments, which shall include textured and/or colored paving or similar treatment and enhanced landscaping with accent trees and other landscape treatments, consistent with the Desert Southwest Design Guidelines.
- D. A minimum six (6) foot wide landscaped area shall separate parking areas from a street or public sidewalk.
- E. Special architectural treatments, materials, and colors shall be used to identify major building entries.
- F. All mechanical equipment shall be screened from public rights-of-way and parking lots as an integral part of the building design through the use of parapets, screen walls, equipment wells, or similar design features, a minimum of six inches above the tallest piece of mechanical equipment.
- G. All architectural structures should be coordinated with site landscaping to create attractive spaces and environments for pedestrians. Tree canopies and/or trellises with greenery trained to grow on the trellises, combined with landscaped boundaries consisting of seat walls and/or shrubs of two (2) to three (3) feet in height should be provided wherever possible to provide comfortable pedestrian spaces.
- H. Architectural quality should enhance surrounding land uses and promote compatibility. Desirable architectural treatment typically creates visual interest by breaking up uniform blank walls, glass and other building forms into areas that are more human in scale.
- I. All structure elevations visible from the public right-of-way and adjacent land uses shall provide one or more appropriate design components, including but not limited to: color variation, wall indentations, window treatment, variations in materials, columns, horizontal or vertical building plane alterations, cornices, or other similar architectural treatment that defines space and promotes visual interest.

- J. Site design should orient buildings, parking, and drive aisles, sidewalks and plazas to provide users a clear indication of the building entrance and clear pathways from parking to the entry. Providing a view corridor along the pathway and a unique and consistent landscape or paving theme along the pathways are good techniques to achieve orientation.
- K. A trash enclosure(s) shall be provided to serve the development. Each trash enclosure shall be placed on a slab or paved area and shall be screened on at least three sides with a solid wall, made of block, masonry or other similar material, minimum five (5) feet high. The trash receptacles shall not be visible above the wall. A visually solid gate shall be provided to adequately screen the receptacles.
- L. Residential development, where allowed, shall not exceed eight (8) dwelling units per acre (gross) and shall comply with Development Code Section 19.08.090, Standards for Residential Development.

The submitted site plan illustrates that the proposal shall conform to many of the above requirements (i.e., parking, trash enclosure, landscaped setback), except with regard to features such as the enhanced driveway treatment (“C”). Features addressing the Desert Southwest Theme (“A”), Special Architectural Treatments (“E”) and Architectural compatibility to the surrounding neighborhood (“H”, “I”) are subjective determinations made by the Planning Commission in its review of the proposed Site Plan Review. If the Commission believes that the proposal, as presented, conforms to the requirements noted above, it may approve the Site Plan Review. If the Commission believes that the proposal does not conform to these requirements, the Commission may advise the applicant of possible changes and continue the item to a later date to allow modifications to be submitted for further review, or the Commission may deny the project. *Under the provisions of Code Section 19.40.030 D 2, Commission denial of the project would not allow the property owner or another applicant to modify the proposal and resubmit for a minimum of one (1) year from the date of that denial, unless the Commission denies the project “without prejudice”, which would allow a modification and re-submittal immediately.*

The applicant has submitted proposed elevations for Commission consideration. These elevations show significant alterations to the “front” portion of the building, that portion facing Adobe Road, and minimal alterations to the remainder of the structure. Portions of the sides of the structure shall be visible from Adobe Road, and the Commission may wish to require the applicant to enhance these areas similar to, and consistent with, the front elevation. If this is the Commission direction, this item may be continued to allow the applicant sufficient time to submit revised elevations, or the Commission may approve the project, but Condition that revised elevations be submitted at a later date (before Building Permits are issued) for review and approval by the Commission.

Additional applicable standards, such as those addressing outdoor storage (19.10.050 “Outdoor Storage and Use Standards”) and performance standards (19.10.060 “Performance Standards”), appear to be achievable by the submitted site plan.

#### **19.10.080 “Parking and Driveways”**

Required parking for the 1,134 square foot commercial barber shop is a minimum of five (5) regular parking spaces and one (1) handicap accessible space (at a ratio of 1 stall per 200 square feet equaling six {6} spaces). All improved or disturbed areas not covered by buildings or landscaping must be paved in concrete or asphalt paving, or otherwise appropriately treated

to contain wind and soil erosion and accommodate traffic and circulation. Areas of heavy vehicle traffic, loading areas and other site areas for heavy vehicles or equipment must have paving design and thickness of sufficient strength to support such vehicles and traffic. Parking and driveways must be provided consistent with the regulations of Chapter 19.82 "Off Street Parking and Loading Regulations". It is noted that approximately one half of the lot (the eastern half) shall be left with "native vegetation", and it is not anticipated that the Commission require that this area be "paved in concrete or asphalt paving, or otherwise appropriately treated". Further, under the provisions of Table 19.82-E "Required Number of Loading Spaces", the development of 1,134 square feet of new commercial space requires that one "Truck" loading space of at least twelve (12) feet by forty-five (45) feet shall be provided on-site. As the Commission is aware, however, the Code (Table 19.82-E) allows "Variations in the size, number and/or location of required loading spaces may be reviewed and approved by the Approval Authority on a case-by-case basis following the submission of supporting traffic, parking or loading information, study or analysis". No such request, nor any supporting documentation has been submitted by the applicant to waive the Code require Loading Space.

Section 19.10.090 "Street Dedications and Improvements" identifies the physical improvements required to the public right-of-way in association with any development of property within the General Commercial zoning district. The following are the specific Code requirements:

#### **19.10.090 "Street Dedications and Improvements"**

- A. Before building permits are issued for the construction of a structure or improvement which would result in an increase or change in vehicular and/or pedestrian traffic, the dedication of additional right-of-way and construction of required street improvements shall be required in accordance with the General Plan Circulation Element.

"Street improvements" include any or all of curb and gutter, sidewalks, concrete driveway approaches, drainage structures, paving, back-filling and preparation of the road surface to rough grade, and the placement of paving, and other necessary improvements as determined by the City Engineer, unless otherwise approved pursuant to Chapter 19.85, *Public Improvements - Delaying or Deferring*.

- B. Before occupancy shall be granted for any such building or improvement, the Building Official shall determine the following:
  - 1. That all of the required dedications have been provided.
  - 2. That all of the required street improvements have either been installed or that a cash deposit, surety bond or other form of surety acceptable to the City Council in an amount equal to the estimated cost of the street improvements has been posted with the City to assure the installation of said street improvements.
- C. In all Commercial Districts, the following street improvement standards shall apply to all rights-of-way:
  - 1. Concrete curbs and gutters shall be installed.
  - 2. Sidewalks shall be installed.

The physical change of the structure as proposed, from a residential home to a commercial building, shall trigger the requirements listed above for roadway dedications and street improvements. The submitted site plan illustrated a street dedication to the required sixty-two (62) foot half-width, as well as installation of curb and gutter. What is not clearly indicated, but

required, is the installation of sidewalk to City standards along the full width of the property (see 19.10.090 C 1 above). No Condition of Approval is provided for this standard, for as a Code standard it shall be required of the applicant whether or not a Condition identifies it.

### **CEQA Environmental Review**

Pursuant to the California Environmental Quality Act (CEQA), the project was routed to appropriate agencies and departments for public review and comment. Comments were received from the City of Twentynine Palms Building & Safety, City of Twentynine Palms Engineering and Marine Air Ground Task Force Training Command MCAGCC.

Pursuant to Section 15301 (Existing Facility) of the State Guidelines to Implement the California Environmental Quality Act (CEQA) the project, which consists of the modification of an existing small structure, was found to be Categorically Exempt from further environmental review.

### **Signage**

Although the submitted “front” elevation illustrate two (2) signs upon this structure, as no specific dimensions are provided, staff cannot determine if the submittal conforms to City standards. Under the provisions of Chapter 19.84 “Signs”, a commercial structure twenty-eight (28) feet wide would be allowed a maximum of fifty-six (56) square feet of signage. No Condition of Approval is provided for this standard, for as a Code standard it shall be required of the applicant whether or not a Condition identifies it.

### **Public Comments**

The City has received comment regarding the proposed residential conversion from the Marine Corps Air Ground Combat Center (MCAGCC). This letter (copy attached) notes that the site of the proposed residential conversion is located “directly under airspace used by the military” and that as such, the property will be subject to noise and vibrations from the Marine Base. Further, the letter reminds the proponent of the City’s Code requirements relative to signage and lighting (in an effort to assure that such signage and/or lighting shall not interfere with the over-flight of military vehicles). The Planning Commission has discussed this requirement at past Public Hearings and has determined that application of a Condition of Approval to note the proximity of the Base is not necessary, except under exceptional circumstances. Therefore, this letter, included within this report, shall serve as formal notice to the applicant and property owner of the location of the Base and of the property owner’s responsibility under State law to disclose this fact to any future buyer of said property. No Condition of Approval is provided for this suggestion and no further steps are warranted at this time.

### **General Plan Goals and Policies**

As noted below under “Findings for Approval”, approval of any Site Plan Review must be reviewed and considered in light of the City’s adopted General Plan and the Goals and Policies articulated therein. Any approval of a Site Plan review must be found to be consistent with both the intent and the letter of these Goals and Policies. The following Goals and Policies are offered for Council consideration and acceptance.

### **Land Use Element:**

#### **Goal #1**

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

#### **Policy #1.1**

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

**Policy #1.2**

Quality standards will be applied to all new developments.

**Policy #1.3**

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

**Goal #2**

Development of a variety of high quality residential neighborhoods.

**Goal #3**

The City will provide opportunity for commercial facilities offering a wide variety of goods and services.

**Policy #3.2**

The Land Use Plan will allow for the creation of limited amounts of commercial development, in commercially designated districts, in or near residential areas.

**Safety Element:**

**Goal #1**

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

**Findings for Approval**

The Approval Authority shall approve Site Plan Review applications and Administrative Site Plan Review applications in cases where all of the “Findings” listed within Section 19.28.050 “Findings for Approval” can be made. The following are the required Findings, along with a comment offered to address each.

- A. The proposal meets the standards of the Development Code, and will result in an appropriate and desirable development; and

Comment: With the exception of Driveway Enhancement treatment (which would be addressed by adherence to a proposed Condition of Approval), the Site Plan Review shall conform to the requirements of the Development Code as interpreted by the Planning Commission.

- B. The proposal’s design and appearance are aesthetically and architecturally pleasing while enhancing the character of the surrounding neighborhood; and

Comment: Upon review of the proposal, and with adherence to all required Conditions of Approval, the Commission finds that the proposed modifications to the exterior of the structure shall render the building’s design aesthetically and architecturally consistent and compatible with the surrounding neighborhood.

- C. The site is suitable in size, shape, and topography for the proposed development; and

Comment: In consideration of the site’s size (0.62 acres), rectangular shape, relatively flat topography and location of the existing structure, the proposed development can be considered suitable to the physical characteristics of the property in question.

- D. The site improvements are appropriate and will result in a safe, well-designed facility; and

Comment: With the anticipated physical improvements proposed with the Site Plan Review (street improvements and right-of-way dedications) as well as adherence to the required Conditions of Approval, the development of the site as proposed is appropriate in consideration of the physical limitations of the site and use and will result in a safe, well-designed facility.

E. Approval of the project is consistent with the General Plan.

Comment: Upon review of the Goals and Policies of the General Plan, as well as the General Plan Land Use Designation of the site, it can be seen that the proposed development of the site for a commercial activity is consistent with the site's General Plan designation and the associated Goals and Policies.

### **Approval Process**

Under the provisions of the Development Code (Section 19.28.080 "Approval Authority" Subsection "B"), when the Community Development Director determines that it is in the public interest for the application to be considered by the Planning Commission, the Community Development Director shall refer the application to the Planning Commission for review. The Planning Commission shall become the Approval Authority for all applications referred by the Community Development Director. In taking action to approve, the Commission must find that the proposed Site Plan Review qualifies for a Categorical Exemption under CEQA, and is consistent with the General Plan. Because the subject property has the General Commercial General Plan land use designation, the proposed barber shop is consistent with the General Plan Land Use Plan and Development Code.



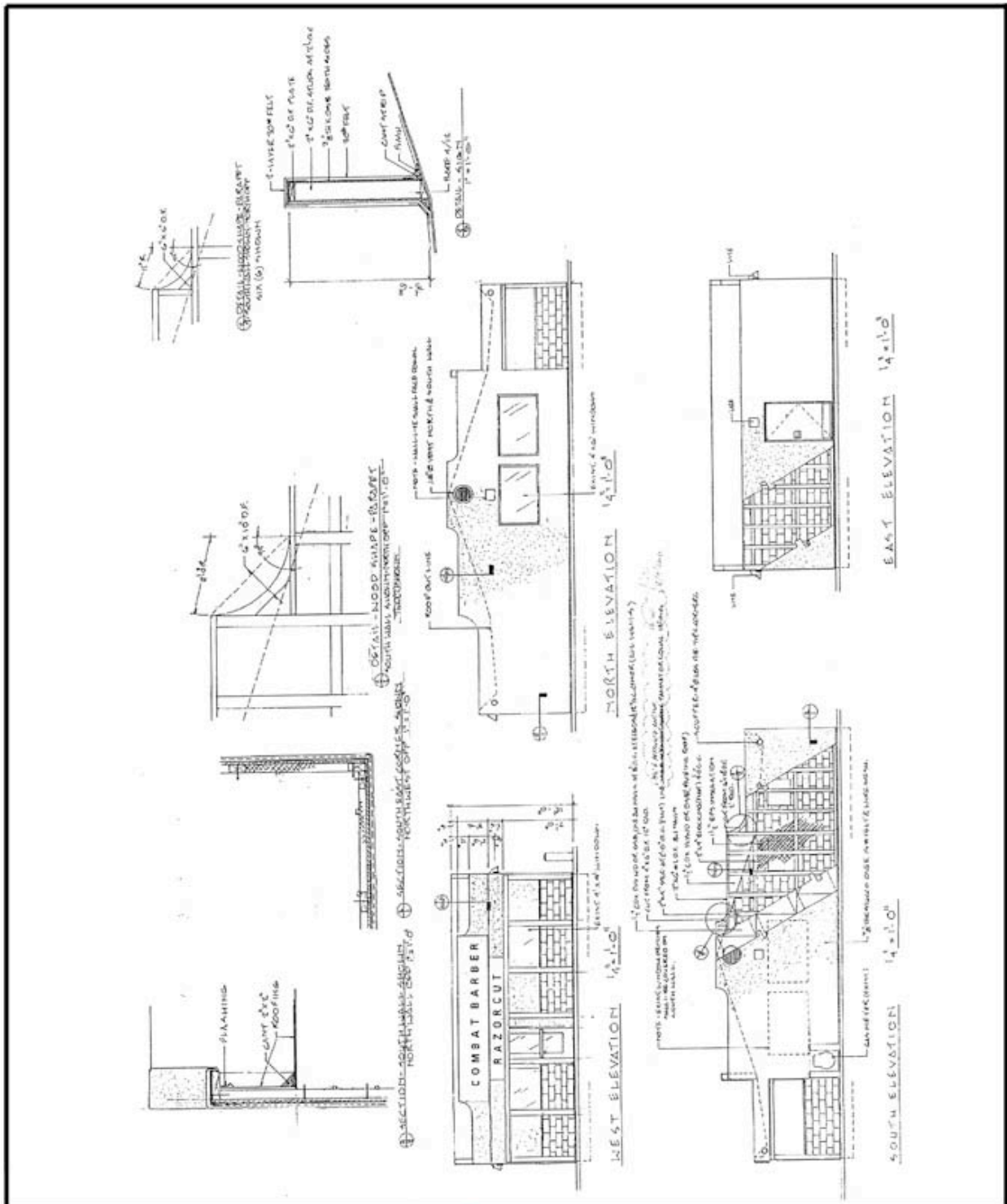
**Aerial**



**PC 10-73  
March 15, 2011**



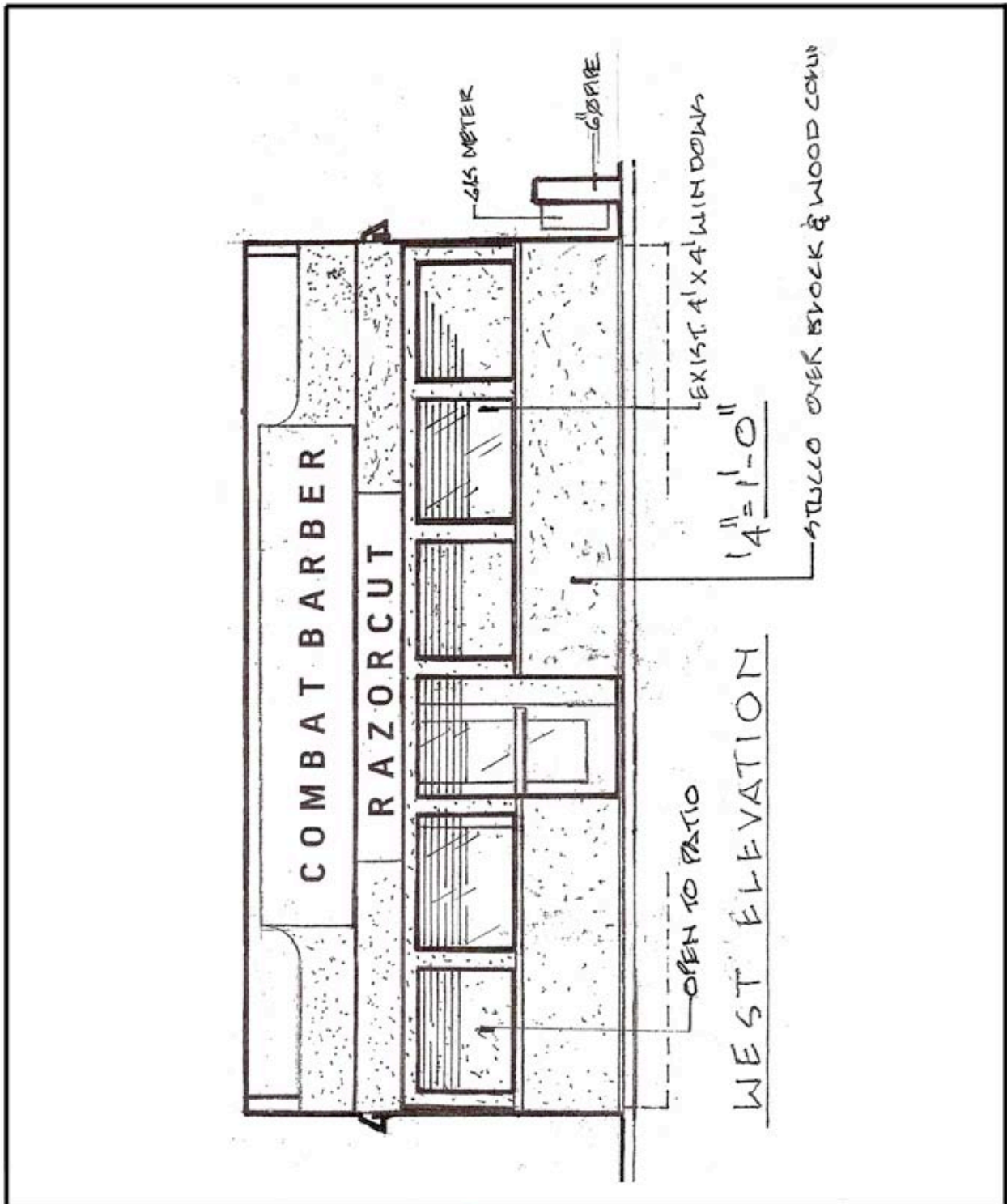




# Exterior Elevations



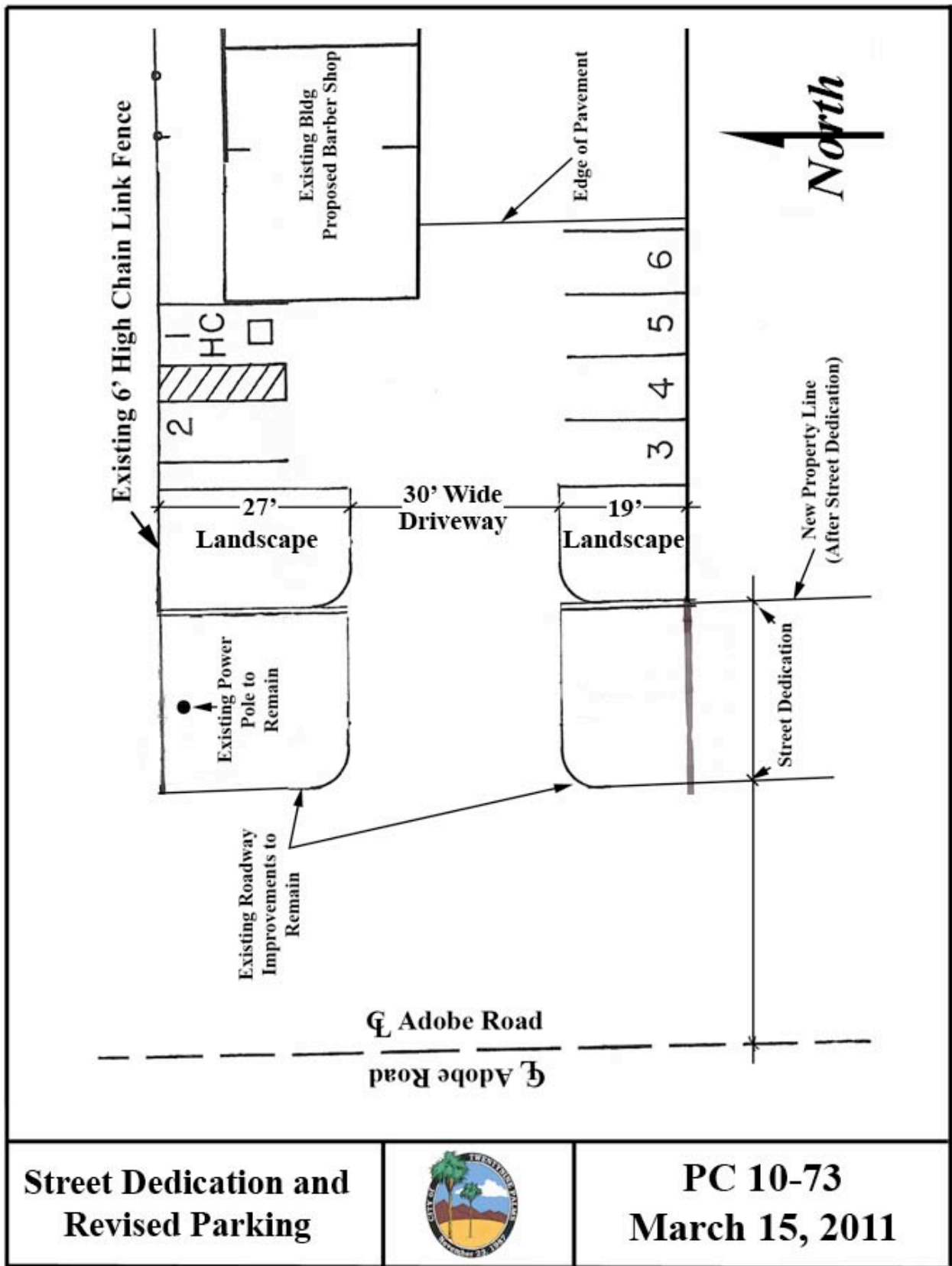
**PC 10-73**  
**March 15, 2011**



**West  
Elevation**



**PC 10-73  
March 15, 2011**



**Street Dedication and  
Revised Parking**



**PC 10-73  
March 15, 2011**



UNITED STATES MARINE CORPS  
MARINE AIR GROUND TASK FORCE TRAINING COMMAND  
MARINE CORPS AIR GROUND COMBAT CENTER  
BOX 788100  
TWENTYNINE PALMS, CALIFORNIA 92278-8100

5726

G-5

3 February 2011

Charles LaClaire  
Community Development Director  
City of Twentynine Palms  
6136 Adobe Rd.  
Twentynine Palms, CA 92277

Dear Mr. LaClaire,

The Marine Air Ground Task Force Training Command/Marine Corps Air Ground Combat Center ("MCAGCC") is interested in ensuring all new businesses and developments are compatible with its mission. Since 1952, the remoteness of the High Desert area has ensured MCAGCC's ability to train Marines in their critical competencies essential to mission success and saving lives. However, a recent increase in incompatible developments now threatens the long-term sustainability of MCAGCC operational ranges and military training. This letter provides the City of Twentynine Palms general information regarding how the proposed **PC 10-73 Site Plan Review for Combat Barber - Razorcut** may become more compatible with the long-term military training mission of MCAGCC.

The proposed site lies directly under airspace used by the military. Continued, uninterrupted use of airspace is an essential part of military training. Large-scale, sustained, combined arms (air and ground), live-fire and maneuver training and numerous smaller scale training events using live ordnance occur daily and nightly, at all hours, at MCAGCC as critical parts of its overall mission. Due to the nature of the proposed project and its location, the proprietor and future patrons will experience military aircraft, military training, noise and vibrations. Therefore, this letter should inform them of the unique aspects of locating near the installation. We highly encourage the City of Twentynine Palms to provide this letter to them for the purposes of disclosure.

In addition, neither the project's site plan nor its west elevation scheme showed a clear lighting plan. We would like to remind the proprietor to adhere to the requirements of the City of Twentynine Palms' Development Code 19.70.030, Letter F about signs:

*"...Lighting fixtures used to illuminate any new sign shall be mounted on the top of the sign structure and shall comply with the shielding requirements of this Chapter and the City's Sign Code."*

The Sign Code (19.84.04, Letter B) states:

*"...Signs may only be lit by stationary, shielded light, by light inside the Sign, or by direct neon lighting..."*

Keeping the desert sky dark maintains the essence of the desert community and allows MCAGCC to continue to train pilots using night vision techniques without combating the effects of light pollution created by non-compliant fixtures.

Thank you for providing us the opportunity to comment. Any questions regarding this matter may be directed to Bob Johnson at 760-830-3446 or [robert.a.johnson2@usmc.mil](mailto:robert.a.johnson2@usmc.mil).

Sincerely,

J.M. RICKNER  
Assistant Chief of Staff, G-5  
Community Plans Liaison Office

CITY OF TWENTYNINE PALMS  
PLANNING COMMISSION  
RESOLUTION NO. 11-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TWENTYNINE PALMS, CALIFORNIA, APPROVING PC 10-73, FOR A SITE PLAN REVIEW TO ALLOW THE CONVERSION OF A RESIDENTIAL STRUCTURE TO A COMMERCIAL STRUCTURE WITHIN THE GENERAL COMMERCIAL LAND USE DISTRICT LOCATED AT 3733 ADOBE ROAD; APN 0621-261-17.

**WHEREAS**, on Sept 23, 2010 an application was received from Mr. Lan T. Hguyen for approval of a Site Plan Review to convert an existing residential structure to allow a barber shop at 3733 Adobe Road; Zone CG; T1N, R9E, Section 9; APN 0621-261-17; and

**WHEREAS**, the current land use for the subject property is a residential structure built in 1944; and

**WHEREAS**, the land use designation (zoning) for the subject property is General Commercial (CG); and

**WHEREAS**, a barber shop is a permitted land use within the General Commercial (CG) Zone with approval of a Site Plan Review; and

**WHEREAS**, pursuant to Section 15301 of the CEQA Guidelines, the project (considered a Class 1 exemption), which consists of the modification of an existing small structure, is Categorically Exempt from further environmental review under state law; and

**WHEREAS**, the City Planning Commission finds on the basis of the whole record before it (including the review of CEQA Guidelines and any comments received) 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**, the project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with applicable zoning designation and regulations; and

**WHEREAS**, the Planning Commission, acting as the Approval Authority, has considered the following Goals and Policies of the adopted City of Twentynine Palms General Plan in its consideration of the proposed Site Plan Review:

**Goal #1**

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

**Policy #1.1**

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

**Policy #1.2**

Quality standards will be applied to all new developments.

**Policy #1.3**

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

**Goal #2**

Development of a variety of high quality residential neighborhoods.

**Goal #3**

The City will provide opportunity for commercial facilities offering a wide variety of goods and services.

**Policy #3.2**

The Land Use Plan will allow for the creation of limited amounts of commercial development, in commercially designated districts, in or near residential areas.

**Safety Element:**

**Goal #1**

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

**WHEREAS**, the site can be adequately served by all required utilities and public services; and

**WHEREAS**, Public Hearing notices were published on March 3, 2011 in a newspaper of record and notice was mailed to all property owners located within 300 feet of the project site on or before the same date; and

**WHEREAS**, Public Hearing was held by the Planning Commission on March 15, 2011; and

**WHEREAS**, with respect to the Site Plan Review application the Planning Commission made the following findings:

- A. With the exception of Driveway Enhancement treatment (which would be addressed by adherence to a proposed Condition of Approval), the Site Plan Review shall conform to the requirements of the Development Code as interpreted by the Planning Commission.
- B. Upon review of the proposal, and with adherence to all required Conditions of Approval, the Commission finds that the proposed modifications to the exterior of the structure shall render the building's design aesthetically and architecturally consistent and compatible with the surrounding neighborhood.
- C. In consideration of the site's size (0.62 acres), rectangular shape, relatively flat topography and location of the existing structure, the proposed development can be considered suitable to the physical characteristics of the property in question.
- D. With the proposed physical improvements proposed with the Site Plan Review (street improvements and right-of-way dedications) as well as adherence to the required Conditions of Approval, the development of the site as proposed is appropriate in

consideration of the physical limitations of the site and use and will result in a safe, well-designed facility.

- E. Upon review of the Goals and Policies of the General Plan, as well as the General Plan Land Use Designation of the site, it can be seen that the proposed development of the site for a commercial activity is consistent with the site's General Plan designation and the associated Goals and Policies.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Twentynine Palms determines that PC 10-73 is Categorically Exempt from further CEQA review and approves the Site Plan Review, subject to the attached Conditions of Approval.

APPROVED AND ADOPTED THIS 15th DAY OF March, 2011

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSENT: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:

\_\_\_\_\_  
Bill Easter, Chairman

ATTEST:

Jacqueline Palmer, Deputy City Clerk

I hereby certify that the foregoing is a true copy of Resolution No. 11-03 duly adopted by the Planning Commission of the City of Twentynine Palms in a meeting held on the 15<sup>th</sup> day of March, 2011, in Twentynine Palms, California.

Dated this 15<sup>th</sup> day of March, 2011.

\_\_\_\_\_  
Jacqueline Palmer, Deputy City Clerk

CITY OF TWENTYNINE PALMS  
DRAFT CONDITIONS OF APPROVAL  
PC 10-73

Applicant: Lan T. Nguyen

Project: Site Plan Review to allow the conversion of an existing residential structure to a Barber Shop.

Location: 3733 Adobe Road

APN# 0621-261-17

Approved: May 15, 2011

Expire: May 14, 2013

The following Conditions of Approval shall be applicable to the Council's approval of PC 10-73. The City's Planning Commission, in making the "Findings" necessary for approval, shall impose the following Conditions of Approval which it establishes as reasonable and appropriate to achieve the purposes of the Development Code and to justify making the necessary Findings. Further, under the provisions of Development Code Section 19.30.110 "Revocation", failure to conform to the following Commission approved Conditions of Approval shall constitute a failure to conform to the Findings made by the Commission in approving the requested use and, therefore, may be the basis upon which the Commission may revoke its approval of the Site Plan Review.

#### Planning Division

- A. Per Section 19.28.070 an approved Site Plan Review shall expire twenty-four (24) months from the date the approval was granted, unless prior to the expiration date:
1. A Building Permit is issued and remains active for any approved phase of the project; or
  2. A Certificate of Occupancy is issued for the use or structure; or
  3. The site is occupied in accordance with the approved use. (A use permit for a public utility installation may be valid for a longer period if specified by the Approval Authority or City Council.)
  4. The site is occupied in accordance with an approved phase as part of a phased development.
- B. An approved Site Plan Review shall expire if the use has been commenced and then is discontinued for a period of one (1) year or more.

#### Planning Conditions

- P1. Site Plan approval is granted by the Planning Commission acting as Approval Authority on May 15, 2011, to permit a barber shop at the above referenced location. All development of the site shall be in substantial conformance with the adopted site plan and shall comply with all Conditions of Approval.
- P2. The Applicant shall ascertain and comply with requirements of all State, County and Local agencies as are applicable to the project proposal.

- P3. The property owner shall keep the property neat, clean, and in good physical condition including open spaces, sidewalks, lighting, driveways, parking areas, and landscaping.
- P4. All outdoor lighting shall conform to Development Code Chapter 19.70, *Lighting Standards*, and shall be designed to not glare or reflect onto neighboring properties or public rights-of-way. Outdoor lighting shall be shielded and limited to that required for security and safety purposes.
- P5. Prior to building alteration or additional construction, the applicant shall submit three sets of plans to the City's Building Official and secure a Building Permit in conformance with the Uniform Building Code.
- P6. All construction and improvements shall comply with *Encroachments into Yards or Setbacks* standards established in the Development Code for the underlying land use district.
- P7. The applicant shall defend, at its sole expense (with attorneys approved by the City), and indemnify the City against any claim, action, or proceeding brought by any third party against the City, its agents, officers or employees resulting from or relating to this approval. The applicant shall reimburse the City, its agents, officers or employees for any judgment, court costs and attorney's fees which the City, its agents, officers or employees may be required to pay as a result of such claim, action, or proceeding. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
- P8. Landscaping is required per Development Code Table 19.10-B, including the submission of Landscaping Plans, which must be approved by the Community Development Department, prior to issuance of the certificate of occupancy. Said landscape plan must be consistent with Go Native Landscape Design Guidelines. Further, the applicant shall install and maintain, in a clean and disease free manner, the landscaped area(s) as illustrated on the approved Landscaping Plans planted with vegetation reflecting a desert theme, including use of drought resistant plants. Said landscaping shall be irrigated and maintained at all times consistent with the landscaping concept approved by the Planning Commission/City Council with its approval of the Site Plan Review and consistent with the landscaping/irrigation plans approved by the Community Development Department. In the event that the approved and installed landscaping is not maintained in a manner consistent with the approved plans, the applicant shall have fifteen (15) days from written notice from the Community Development Department to bring the landscaping back into conformance with the approved landscaping/irrigation plans or provide evidence to the Community Development Department of appropriate efforts to bring the landscaping into conformance with the approved plans. Failure to return the landscaping/irrigation system to its approved state shall be considered a failure to conform to the Commission/Council approved Conditions of Approval and may be grounds to initiate a revocation of the Site Plan Review as prescribed under Code Section 19.30.110 "Revocation".
- P9. A minimum of six (6) paved parking spaces shall be provided, (five {5} regular parking spaces and one {1} handicap accessible space.) Ingress, egress, parking areas and driveways shall comply with Development Code Chapter 19.82 – Off-Street Parking and Loading Regulations.

- P10. A trash dumpster enclosure shall be provided to meet the standards established by Development Code Chapter 19.80 – Recycling and Solid Waste Disposal.
- P11. The applicant shall contact the California State Board of Barbering and Cosmetology at (800) 952-5210 for required permits and provide the City of Twentynine Palms Community Development Department with copies upon permit issuance.
- P12. The applicant is required to obtain and maintain a current City of Twentynine Palms Business License for each business at this site.
- P13. One truck loading zone space of twelve (12) feet by forty-five (45) feet shall be provided so as not to obstruct any parking space.

### **General Conditions**

- G1. All Conditions are continuing Conditions. Failure of the Applicant and/or operator to comply with any of the said Conditions at any time may result in the revocation of the Site Plan Permit approval and/or citation for code violation.
- G2. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees, including reimbursement for all City expense in ensuring compliance with the Conditions of Approval.
- G3. The applicant shall provide a signed copy of the Conditions of Approval to the Planning Division within 10 days of approval.

### **Building and Safety**

- B1. The applicant/developer shall submit plans and obtain building permits for all structures and walls. No work is to be done prior to approvals and permit issuance.

### **Engineering Division**

#### General

- E1. The project shall comply with all applicable City ordinances and resolutions.
- E2. All road easements required shall be offered for dedication to the public and shall continue in force until the City accepts or abandons such offers. All dedications shall be free from all encumbrances.
- E3. A sixty-two (62) foot half-width street dedication along Adobe Road shall be dedicated to the City of Twentynine Palms prior to Final Occupancy.
- E4. All Street Improvement Plans shall be reviewed and approved by the City Engineer prior to permit issuance.

#### Grading

- E5. A grading permit shall be obtained from the City Engineer prior to any grading or other work done on the site.

- E6. An encroachment permit separate from the grading onsite permit shall be obtained from the City of Twentynine Palms (760-367-6799) prior to any construction occurring within the public right-of-way.

Utilities

- E7. All proposed construction of utilities adjacent to and onsite shall be underground.
- E8. Soil percolation testing for the subsurface disposal system shall meet the requirements of the San Bernardino Environmental Health Services and the City.

**Fire Department**

- F1. Prior to any construction, the owner shall contact the Twentynine Palms Fire Department for verification of current fire protection requirements.
- F2. All construction and activities shall comply with applicable sections of the 1988 edition of the Uniform Fire Code and all other state, county, and city ordinances, rules and regulations regarding fire protection.
- F3. Street addresses shall be posted with numbers a minimum height of four (4) inches. Posted numbers shall contrast with their background and be visible and legible from the street.

The undersigned applicant verifies that he/she has read the Conditions of Approval, understands each Condition, and agrees to adhere to the Conditions of Approval.

\_\_\_\_\_  
Applicant/Developer

\_\_\_\_\_  
Date



**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 10-73 – Lan T. Nguyen Barber Shop

**Project Location:** 3733 Adobe Road

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

**Description of nature, purpose and beneficiaries of Project:** Site Plan Review to allow the conversion of a residential structure to a commercial barber shop.

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

**Name of Person Carrying Out Project:** Mr. Lan T. Nguyen

**Exempt Status (check one):**

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

**Reason(s) Project is Exempt:** Pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guideline, the project, which consists of the modification of a small structure, is Categorically Exempt from further environmental review under state law.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Community Development Director  
Title



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

6136 Adobe Road  
Twentynine Palms, CA 92277  
(760)367-6799 – Fax (760) 367-5400

**To:** Planning Commission – Study Session  
**From:** Community Development Director  
**Date:** March 7, 2011

**For Commission Meeting Of:** March 15, 2011

**SUBJECT:** PC 11-09 – Interpretation and guidance on Development Code Section 19.48.030 “Accessory Uses in Residential Districts” regarding the architectural requirements applicable to an accessory structure; citywide.

**RECOMMENDATION**

Staff recommends that the Planning Commission review the enclosed language at a study session open to the public and then provide guidance regarding how to apply the Code provision that states “All accessory buildings shall be required to be architecturally compatible with the main structure(s)”. This provision, however, is unclear as to the nature, extent and character of that architectural compatibility. Guidance is being sought to clarify this requirement.

**Attachments:**

Minute Excerpt from Commission meeting of February 15, 2011  
Development Code Section 19.48.030 “Accessory Uses in Residential Districts”

**ORDER OF PROCEDURE**

Request Staff Report (Charles LaClaire presenting)  
Commission Questions of Staff  
Receive Public Comment  
Commission Discussion  
Direction to staff

**PROJECT DESCRIPTION**

A study session to provide guidance to staff on how to apply Development Code Section 19.48.030 “Accessory Uses in Residential Districts”, “All accessory buildings shall be required to be architecturally compatible with the main structure(s)”. This provision, however, is unclear as to the nature, extent and character of that architectural compatibility. Guidance is being sought to clarify this requirement.

**BACKGROUND**

At its regularly scheduled meeting of February 15, 2011, the Planning Commission was requested to provide guidance to staff with regard to how to apply the Accessory Structure portion of the Code relative to residential development within the community. At that meeting, the Commission commented on how the standards may be applied relative to the nature of the structure involved (an example was give where the height and visibility of the structure affects which rules apply). It was clarified that storage containers and accessory structure should (and are) treated differently by the Code. To help frame the discussion, Commissioner Whitten provided a definition for compatibility addressing “capable of existing together in harmony” or architectural compatibility results in designing a building or facility in harmony with its natural and manmade surrounding. While this was helpful, staff gave examples of its concerns in that if

the primary structure on site had stucco or non-reflective siding, a sloped roof, tile roofing, eaves, decorative colors or exterior treatments, was it the Commission's interpretation of the Code that the accessory structure, to achieve "compatibility", must also have these same or similar colors, features or treatments (or mimic the same)?

Although one Commission noted a desire to have visuals of the issue under discussion, another Commissioner commented that staff had interpreted the Code correctly, as written, and now it was up to the Commission to decide whether or not it wished to amend the Code to achieve a different result. Staff was unclear as to the visuals that were requested and, therefore, asks that if the Commission could better define what is desired, staff will endeavor to provide these materials.

As was noted within the Commission's February 15, 2011 Commission report, recently an individual was cited for construction of an accessory building without benefit of the required Building Permit. When contacted and explained that a Building Permit was required, the individual began the process to obtain the Permit, but experienced some difficulties when it was determined that his/her proposed white colored accessory building constructed entirely of corrugated metal (including the roof), and without eaves, was architecturally inconsistent with the main residence on site. This individual questioned staff's interpretation of the Code that Code Section 19.48.030 B1 requiring "architecturally compatible with the main structure(s)" meant that if the main home on site was stucco, with eaves and a tile or shingle roof, that the accessory structure had to be similarly designed (though not necessarily tile roofing, but similar in color). His/her opinion was that as long as the accessory structure was similar in color and general texture, matching the home or main structure's siding, roofing, eaves and general color was not required.

### **Code Provision**

Listed below is an excerpt from the Development Code Section in question (entire Section attached to the end of this report).

**19.48.030 Accessory Uses in Residential Districts.** The following uses shall be permitted as accessory uses to each single dwelling unit which is allowed:

>>>>>>

B. Accessory Structure Regulations. The following additional regulations shall apply to accessory structures as specified:

1. All accessory buildings shall be required to be architecturally compatible with the main structure(s).

### **ANALYSIS**

At its meeting of February 15, 2011, the Commission initiated its review of the current Development Code which requires that "All accessory buildings shall be required to be architecturally compatible with the main structure(s)." Staff has interpreted this requirement to mean that whenever an accessory structure is proposed within the community that such proposed accessory structure must have the fundamental characteristics (appearance, texture, style and architectural/decorative features) as the main structure on site. This would entail a similar exterior color and texture (lap siding, wood, stucco or combinations thereof), similar roofing material (shingle, tile or material similar to tile), and physical features such as eaves and notable architectural decorations (for example, vertical accents, window surrounds or "pop-outs", etc.). Further, it appears that all accessory structures including "Non-habitable accessory

facilities such as a cabana, play yard, tennis court, porch, ramada, awning, patio slab, water tower and well, swimming pool, storage buildings and similar uses” (Code Section 19.48.030 C) are subject to these same requirements.

While the February 15<sup>th</sup> Commission report noted that staff believes its current reading to be a prudent and fair enforcement of the written Code, this same interpretation of the Code has not been the practice in the past and a tour of the community reveals that many, many accessory buildings/structures built after the above noted Code Section was enacted have been approved and built with Building Permits. This creates an inconsistency in enforcement and without a clear direction from the Commission or Council, leaves staff questioning how stringently to enforce the Code.

To complicate the issue, the same City Code Section addressing on-site construction of accessory structures (19.48.030 “Accessory Uses in Residential Districts”) allows the placement of Cargo Containers upon a residential property, but only requires that these types of structure be “screened from view of the neighbors and the public rights-of-way by residential structures, landforms or physical features of the lot, landscaping or opaque fencing of up to six (6) feet in height with any visible remaining exterior portion of the container(s) painted in a manner compatible with the principal residence on site.” Therefore, a Cargo Container may have a flat roof, no eaves, any type of siding or exterior texture (typically something akin to flat or corrugated metal), regardless of the architectural features of the main residence, as long as that portion of the “Cargo Container” visible above the fence is “painted in a manner compatible with the principal residence”. Thus, an on-site stick built structure must have the architectural features of the main structure, but a cargo container need only be screened and the top two (2) feet painted to match the color of the main structure.

Staff was directed to schedule a study session on this topic to allow the Commission the opportunity to consider the differing aspects of the issue and Code and to discuss a possible interpretation of the intent and meaning of the written Code to guide the future development of the community. While it is a fact that many existing structures have been built under the current Code requirements, without conformance to the current interpretation of architectural compatibility, that fact does not justify the perpetuation of that practice if the Commission’s “new” interpretation of the intent and letter of the Code is to require more stringent aesthetic conformity/compatibility between structures on the same property by the application of these standards. Alternatively, however, the Commission may provide staff with guidance as to how to interpret the Code to allow more flexibility in achieving the Code required architectural compatibility; by such means as allowing exterior textures or color that do not match or compliment the main structure, differing roofing materials, or not requiring architectural treatments similar to the main structure, eaves or architectural accents.

Additionally, at the February 15<sup>th</sup> meeting, the Commission questioned the requirements apply to metal or metal and canvas shade structures typically associated with covering larger vehicles such as Recreational Vehicles (RVs). Staff informed the Commission that such structures were treated the same as stick built (on-site, wood built) structures and they too must have conformity to the main structure on site (which would mean walls that go all the way to the ground, eaves, doors, sloped roofs, etc.). It appeared the Commission wished to discuss and/or address these types of structures.

### **Code Amendment**

It is noted that although the Commission has significant latitude in interpreting the Code, if any such interpretation clearly changes the letter or intent of the written material, that may increase

the possibility of success for any legal challenge. If the Commission desires to significantly change the way Accessory Structures are addressed within the Code, a Code Amendment could be initiated that would allow the Commission to forward a formal recommendation to the Council for final action that would amend the language of the Code as desired.

### **Findings**

Pursuant to the City's Development Code, there are no specific "Findings" that must be made to provide staff with an interpretation of the Code. If the Commission initiates a Code Amendment to formalize a change to the intent or language of the Code, at that time the Development Code would require making four (4) specific "Findings" of approval, in a positive manner, prior to recommending or adopting a Development Code Amendment.

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

The issue at hand is a Commission interpretation of how staff should apply the requirements of Code Section 19.48.030 "Accessory Uses in Residential Districts". As such, any interpretation would be applied to all applicable requests, city-wide. In providing the Code interpretation, the Commission should consult the Goals and Policies of the adopted General Plan to confirm conformance between its interpretation and those Goals and Policies.

### **Findings**

Under the provisions of the Development Code, no "Findings" are required to be made for the Commission to interpret the Code. If, however, the Commission feels that a Code Amendment is warranted to address what appropriate standards should be applied to Accessory Structures, then 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 in a positive manner prior to recommending or adopting a Development Code Amendment (illustrated below). If the Commission were to initiate a Code Amendment, at the Public Hearing required for such a proposal, and following receipt of guidance from the Commission from which appropriate draft language would be proposed, staff shall provide the Commission with comments to address each "Finding" for consideration and possible adoption, forwarding its recommendation to the City Council.

- A. The Zone Change or Development Code Amendment is consistent with the intent of the goals and policies of the General Plan; and
- B. The Zone Change or Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses; and
- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and
- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety, and welfare of the community.

### **CEQA Environmental Review**

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposal has been reviewed for its potential to impact the environment. It has been determined that the proposal, consisting of a discussion of how to interpret the language of the existing Development Code, cannot by itself have a direct impact upon the environment. As such, under the provisions of Government Code Section 21065 a Code interpretation is not a "Project" under CEQA and as such is exempt from further environmental review.

**Approval Process**

As noted herein, the issue being considered is staff's interpretation of the Code with regard to Accessory Structures and whether or not the Commission agrees with that interpretation. If the Commission agrees with staff's interpretation, but would like to amend the Code to address Accessory Structures with different standards, the Commission may initiate a Code Amendment. As the Commission is aware, under the provision of Development Code Section 19.22.040 "Approval Authority and Notification" (for Development Code Amendments) the Planning Commission is the Review Authority for any changes to the Development Code, with the City Council being the Approval Authority. If a Code Amendment is initiated, any suggested changes would be forwarded to the Council for final action.

**FISCAL IMPACT**

No fiscal impact, positive or negative, is expected at this time with the proposed interpretation of the Development Code relative to architectural compatibility of Accessory Structures.

**TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY**  
**6136 Adobe Road**  
**Twentynine Palms, CA 92277**  
**www.ci.twentynine-palms.ca.us**  
**TUESDAY, FEBRUARY 15, 2011**  
**6:00 P.M.**

**MINUTES (EXCERPT)**

- 1.0 CALL TO ORDER-** Chair Easter called the meeting to order at 6:00 p.m.  
**PLEDGE OF ALLEGIANCE-** Vice Chair Alderson led the Pledge of Allegiance.  
**ROLL CALL-** The following Commissioners were present: Alderson, Benton, Mendoza, Whitten and Easter.

>>>>>>

**8.0 REPORTS, REQUESTS AND COMMUNICATIONS**

>>>>>>

- 8.2 PC 11-09 – Interpretation and guidance on Development Code Section 19.48.030 “Accessory Uses in Residential Districts” regarding the architectural requirements applicable to an accessory structure; citywide.

Director LaClaire presented a staff report to the Planning Commission.

Commissioner Whitten said he would like to see visual comparisons.

Vice Chair Alderson suggested bringing the item back for a study session at a later date.

Consensus of the Planning Commission was to bring the item back as a study session at a later date.

>>>>>>

- 12.0 ADJOURNMENT-** Chair Easter adjourned the meeting at 7:35 p.m.

Respectfully Submitted,

---

Jacqueline Palmer, Deputy City Clerk

## Development Code Excerpt

**19.48.030 Accessory Uses in Residential Districts.** The following uses shall be permitted as accessory uses to each single dwelling unit which is allowed:

- A. Guest Housing. Residential occupancy of a living unit, with no kitchen plumbing, located on the same parcel as the primary dwelling unit, but separated from it by at least ten (10) feet. This housing is for use by the occupants or temporary guests of the occupants of the premises and is not to be rented or otherwise used as a separate dwelling, except as provided by this Section.
- B. Accessory animal raising as specified by Chapter 19.52, *Animal Keeping*.
- C. Non-habitable accessory facilities such as a cabana, play yard, tennis court, porch, ramada, awning, patio slab, water tower and well, swimming pool, storage buildings and similar uses.
- D. Accessory Structure Regulations. The following additional regulations shall apply to accessory structures as specified:
  - 1. All accessory buildings shall be required to be architecturally compatible with the main structure(s).
  - 2. In RM and RS districts, the following size restrictions shall apply to accessory structures unless a greater size is approved with a Minor Use Permit:
    - a. In the RS District, the area of accessory buildings or features may not exceed fifty percent (50%) of the area of the main structure or 1,000 sq. ft., whichever is larger.
    - b. In both districts, an accessory building may not be higher than the height of the established main structure.
  - 3. In all districts, the setback of an accessory building shall be greater than the minimum established for the district in question when the height of the structure is greater than the yard setback; in which case the structure shall be setback at least to the line where the height is not greater than the distance from the structure to the property line.
- E. Permanent use of sea-going cargo containers and similar storage devices may be permitted as permanent storage facilities on a lot containing a residence subject to the following conditions:
  - 1. Approval of an Administrative Cargo Container Review where it is demonstrated that the requested container(s) is proposed to be located within the rear yard area of the lot, screened from view of the neighbors and the public rights-of-way by residential structures, landforms or physical features of the lot, landscaping or opaque fencing of up to six (6) feet in height with any visible remaining exterior portion of the container(s) painted in a manner compatible with the principal residence on site.
  - 2. Screening shall be waived if the container(s) is/are completely encased within an on-site, stick-built skin and eaves, which are architecturally consistent with the main home on site and located no closer than fifty (50) feet to any adjoining property line.

3. Containers shall be maintained in “reasonable aesthetic condition” at all times, shall not exceed fifty percent (50%) of the floor area of the primary building on site nor be stacked one atop another, and shall not be used for habitation of persons or animals.
4. Alternative allowances, including size, screening, condition, location, habitation, etc., may be considered and approved by the Planning Commission under review and approval of a Conditional Use Permit.



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

6136 Adobe Road  
Twentynine Palms, CA 92277  
(760)367-6799 – Fax (760) 367-5400

**To:** Planning Commission – Study Session  
**From:** Community Development Director  
**Date:** March 7, 2011

**For Commission Meeting Of:** March 15, 2011

**SUBJECT:** PC 09-76 – A Study Session to consider a possible amendment to the Land Use Tables and Accessory Uses of the City’s Development Code regarding commercial and non-commercial shooting ranges and the discharge of firearms within all zoning districts.

**RECOMMENDATION**

Staff recommends that the Planning Commission review the enclosed language at a study session open to the public and then provide guidance regarding possible changes to portions of Tables 19.07-A “Permitted and Conditional Uses”, 19.08-A “Permitted and Conditional Uses” 19.09-A “Permitted and Conditional Uses”, 19.10-A “Permitted and Conditional Uses”, 19.12-A “Permitted and Conditional Uses” 19.14-A “Permitted and Conditional Uses” and 19.48 “Accessory Uses and Structures” pertaining to public and private commercial and non-commercial shooting ranges, or like and similar uses, and the discharge of firearms within the City of Twentynine Palms in all residential, commercial and industrial zoning districts.

<p><b>Attachment:</b> Minute Excerpt from Commission meeting of February 15, 2011</p>
---

**ORDER OF PROCEDURE**

- Request Staff Report (Charles LaClaire presenting)
- Commission Questions of Staff
- Receive Public Comment
- Commission Discussion
- Direction to staff

**PROJECT DESCRIPTION**

A study session to consider a possible Development Code Amendment (PC 09-76) that may amend those portions of Tables 19.07-A “Permitted and Conditional Uses”, 19.08-A “Permitted and Conditional Uses” 19.09-A “Permitted and Conditional Uses”, 19.10-A “Permitted and Conditional Uses”, 19.12-A “Permitted and Conditional Uses” 19.14-A “Permitted and Conditional Uses” and 19.48 “Accessory Uses and Structures” pertaining to public and private commercial and non-commercial shooting ranges, or like and similar uses, and the discharge of firearms (weapons) within the City of Twentynine Palms in all residential, commercial and industrial zoning districts.

**BACKGROUND**

At its regularly scheduled meetings of January 18, 2011 and February 15, 2011, the Planning Commission was introduced to a possible Code Amendment to address the current Development Code standards and criteria for shooting ranges and the discharge of firearms within the community. Those discussions were a result of a meeting on November 23, 2010, at

which the City Council initiated a Development Code Amendment to further define and address within the Municipal and Development Codes, the opportunity and restrictions relating to, and associated with, the discharge of weapons within the community. This issue arose at the November 23<sup>rd</sup> Council meeting as the discharge of firearms, and both public and private shooting ranges or areas where the discharge of firearms and other weapons are allowed, has been a topic of discussion within the community over the past eighteen (18) months.

As has been noted within previous reports, under the current provisions of the Municipal Code private activities characterized as the discharge of firearms/weapons are referred back to the County's Code which allows the discharge of weapons within the community, but subject to State law. State law allows the discharge of weapons, but such discharge must be at least 150 yards from a residential structure (whether occupied or not), except with the property owner's permission (which removes this restriction) and prohibits the discharge over or from a roadway. Shotguns are exempt from this requirement with the use of buck-shot of a specified size (slugs are treated similar to handguns and rifles).

The Development Code addresses the issue as it pertains to land use in that within the Rural Living districts (RL 1; 2.5; 5), Table 19.07-A "Permitted and Conditional Uses" allows "Sports oriented recreational facilities requiring remote locations" under Planning Commission approval of a Conditional Use Permit, with a clarification note stating "Including, but not limited to archery and gun ranges, golf courses, hunting clubs, off-road vehicle parks, and tennis and swim clubs." No other residential zone allows this use or makes this reference to "gun ranges". Within the Commercial zoning districts, Table 19.10-A "Permitted and Conditional Uses" notes that shooting ranges are prohibited. And within the Industrial zoning districts, Table 19.12-A "Permitted and Conditional Uses" allows shooting ranges with Planning Commission approval of a Conditional Use Permit within the Community Industrial (IC) district.

The Development Code does not define "gun range" or "shooting range", nor does it define discharging weapons. Further, the Code does not appear to distinguish between a commercial activity, where anyone may come to a property to discharge weapons (a gun, pellet or air gun, bow/arrow, slingshot, paintball gun, mortar, catapult or other type of projectile emitting device) for a fee or other compensation, versus the discharge of a weapon by a private property owner or someone else with the specific permission of that property owner but without any type of compensation.

At the January 18<sup>th</sup> meeting, the Commission reviewed a series of questions posed by staff to gather information and guidance from the Commission regarding how it would like to address the discharge of firearms issue. At its meeting of February 15, 2011, the Commission reviewed draft language offered to address the answers given to the questions addressed at the January 18<sup>th</sup> meeting. At the February 15<sup>th</sup> meeting, the Commission discussed the draft language, but felt that further community input would be beneficial and directed that the item be set for a study session (tonight's study session), open to the public (and further, formally continued the Public Hearing of PC 09-76 to the Commission's regularly scheduled meeting of April 19, 2011). As always, if the proposed language is unsatisfactory to the Commission, any additional guidance or clarification would be welcomed by staff.

### **Analysis:**

At its meeting of February 15, 2011, the Commission continued its review of a possible Code Amendment to address the discharge of weapons within the City of Twentynine Palms. In reviewing the language that was presented within the Public Hearing report, the Commission directed that the following changes to the language or information be provided:

The Commission proposed that only one definition for “shooting range” be created and that any such definition should apply to any form of range, whether commercial or noncommercial, private or otherwise.

The Commission would like language that addresses the concept of “target practice” so that it is clear that a homeowner shooting his weapon on his land for practice is not defined as a shooting range. Any definition of target practice must also acknowledge and conform to State regulations.

Add into the definition or standards for ranges the concepts of left and right lateral limits, designated yard lines, impact area and surface danger zones.

Review the State’s limitation of “Shooting range” relative to shotguns. Staff research shows that State limitations do not address the size of shotgun pellets relative to whether range restrictions or allowance would or would not apply. The “00” distinction made within the previous report’s material appears to be an arbitrary number that the Commission may change, or the Commission may address shotguns the same as any other weapon emitting projectiles.

Amend the Tables to list that “Recreational Weapons Usage”, or “Shooting/Gun range” are permitted (“P”) but qualified with use of an asterisk (“\*”).

Language should be included within the proposed material to distinguish between a customer, patron or member of the club (private range), to clarify commercial versus non-commercial/recreational uses.

The Commission elected to limit the allowance of “Shooting/Gun ranges” within the Office Commercial (CO), Neighborhood Commercial (CN) and Tourist Commercial (CT) to indoor facilities only (with an improved definition of an indoor facility).

The Commission noted its concern relative to non-commercial and recreational shooting ranges, and how the terms were not consistently used throughout the proposed language. Staff is to modify the language used for consistency of terms.

The Commission directed that the notification distance for discretionary review shall be extended from the standard 300 feet to 500 feet for indoor ranges and 1,000 feet for outdoor ranges.

The Commission questioned the parking requirements for a private club. As a club can have large numbers of members and may have extensive activities (and impacts) upon a property, it is suggested that the parking standards be established similar to commercial ranges, but then make provisions to allow reductions based upon Commission review.

The Commission directed that the proposed language be added to the material to include a prohibition of discharging a weapon over “County, State” or Federal lands.

The Commission pointed out some typographical errors that staff shall correct.

The Commission also directed that the provisions proposed within the residential district regarding the Commission’s ability to reduce standards for private or public “indoor” shooting ranges be added to the ranges within commercial districts.

The Commission directed that language be added to the proposed material that would address the sale of ammunition at the ranges. It is staff's suggestion that such sales be limited to off-site exchanges to limit the potential to have a stockpile of ammunition within residential areas, or within commercial areas that would not otherwise allow retail sales.

The Commission wished to examine language that would allow private, "non-commercial outdoor" ranges within the General Commercial by right-of-zone (assumed only within the General Commercial district as previously the Commission directed the limitation of ranges to indoor for the Office Commercial (CO), Neighborhood Commercial (CN) and Tourist Commercial (CT) districts).

It was noted that the Code should provide language that would remind the operators of a "private club" that any exchange of weapons is subject to and must confirm with State and Federal laws and that the City wishes to receive a copy of the required background checks. Staff is still investigating whether the City has the authority to require that copies of back-ground checks be provided to the City.

The Commission also shall review/approve the form that shall be created with any Development Code Amendment approved by the Council for the submission and approval of an "Administrative Weapons Discharge Permit". The form itself shall be prepared following Council approval of a Code Amendment establishing this standard, after which the draft form shall be presented to the Commission for review and approval.

A significant discussion between the Commissioners at the February 15<sup>th</sup> Public Hearing related to the specific standards that the Commission may be allowed, by Code, to reduce or wave outright, under the required Planning Commission Conditional Use Permit review. It appeared to be the consensus of the Commission that only specific standards should be allowed to be waived, not potentially all standards, and that the Commission wished to further examine and consider which specific standards those might be. Staff suggests that the directly allowed reductions in standards be those associated with separation distances (but only with consideration of surrounding topography), minimum lot size (but only with regard to lot configuration and the proposed configuration of the requested range {i.e., a long, narrow lot, with the range oriented with the length of the lot}) and parking standards (but only where the proponent clearly demonstrates, and the Commission conditions, a specific limitation to the maximum number of individuals that would be at the location at any one time). If this is the direction of the Commission, staff shall propose modifications to the appropriate language at the Code Amendment Public Hearing.

Another issue that was raised at the February 15<sup>th</sup> Public Hearing was that of "grandfathered" land uses (uses legally established, but which are now non-conforming to the regulations established within the Development Code). As the City has not had regulations addressing shooting ranges, no "City" approved range currently exists to take advantage of any continuance of a non-conforming use afforded by the Development Code. Where a land use can be demonstrated to have legally existed prior to the incorporation of the City, and continuously operated since incorporation (with not more than a lapse of 180 days), that land use can be declared as existing non-conforming and allowed to continue under the provisions and requirements of Development Code Section 19.86.020 "Continuation of Nonconforming Buildings and Uses". Other derivations of these possibilities, such as where an owner has used his/her property for private "target practice" without City approval, but in conformance to State

and Federal laws, would need to be evaluated based upon the specifics of the property, use, zoning and surrounding uses.

Below is staff's attempt to address the issues and changes discussed by the Commission. Although many changes are proposed, staff can change the language offered in any manner desired and directed by the Commission. Further, if the direction of the proposed language is inconsistent with the desired direction of the Commission, staff suggests that an additional Study Session be held to provide the guidance needed to amend the language that would be considered under a future Code Amendment Public Hearing.

The material below is that which was provided at the Commission's February 15<sup>th</sup> Public Hearing. Language that has been added to that previously considered is highlighted in **Bold and Italic type**, whereas deletions are illustrated with ~~double strike through~~.

### **Proposed Language**

Amend Chapter 19.06 "Definitions" by the addition of new definitions to Sections 19.06.040 "D" Definitions, 19.06.060 "F", Definitions 19.06.070 "G" Definitions, 19.06.150 "O" Definitions, 19.06.160 "P" Definitions, 19.06.180 "R" Definitions, 19.06.190 "S" Definitions, 19.06.200 "T" Definitions and 19.06.230 "W" Definitions the following definitions in alphabetical order within the appropriate subsections to read as follows:

**Discharge.** To expel, emit, let go or shoot, as a missile; or to emit contents.

**Discharge of Weapons.** To expel, emit, let go or shoot a projectile of any type from a device such as a firearm (handguns and rifles), pellet/air guns, slingshots, paintball guns, bow/arrows, shotguns, cannons, mortars or catapults.

**Firearm.** A weapon whose charge is expelled by the explosion of gunpowder, usually in reference to a small device such as a rifle or revolver.

**Gun range.** See "Shooting range".

**Open air range.** See "Shooting range".

**Pistol range.** See "Shooting range".

**Rifle range.** See "Shooting range".

**Shooting range. *Shall be defined as follows:***

**General** - A pistol, rifle, gun, shooting or open air range (terms used interchangeably) is a land use activity that involves the singular or organized discharge of weapon(s) by one or more individuals that emit projectiles that travel a minimum of fifty (50) feet and which have the capacity to cause/inflict great bodily harm. Such projectile emitting devices may include, but are not limited to, handguns, rifles, shotguns ~~using slugs/double "00" shot~~, cannons, mortars and catapults; but typically do not include ~~shotguns using shot smaller than "00"~~, pellet or air guns, bow/arrows, tazers, slingshots, paintball guns or similar mechanical devices.

This definition shall apply to a property whether those individuals participating in the discharge of weapons is/are the property owner(s), prospective owner(s) or an

individual(s) in control or custody of said property, or any manner of visitor, guest, friend, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

**Commercial** - A **commercial shooting range is a range available to individuals or groups with or without a fee, gratuity, trade or other form of director or indirect compensation, and which may or may not involve the sale or any manner of exchange/trade/barter/swap of a weapon**, ~~commercial pistol, revolver, rifle, gun, shooting or open air range is a land use activity that involves the singular or organized discharge of weapon(s) as noted herein, for a fee, gratuity, trade or other form of direct or indirect compensation, and which may or may not involve the sale or any manner of exchange/trade/barter/swap of a weapon,~~ or an activity on that property which may be a prelude to a sale, purchase or exchange of a weapon at another location, where said singular or organized discharge of weapon(s) is conducted or carried out by the property owner(s), prospective owner(s) or an individual(s) in control or custody of said property, or any manner of visitor, guest, friend, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

**Indoor** - An **“Indoor Shooting Range” shall be any shooting range facility where the activity of discharging a weapon is conducted completely within an enclosed structure consisting of a floor(s), roof and walls or other physical barriers or enclosing devices which shall completely contain all projectiles discharged from said weapon within such enclosed structure.**

**Non-commercial** - A non-commercial **shooting range is a range available to individuals or groups** ~~pistol, rifle, gun, shooting or open air range is a land use activity that involves the singular or organized discharge of weapon(s) as noted herein,~~ without a fee, gratuity, trade or other form of director or indirect compensation, and which does not involve the sale or any manner of exchange/trade/barter/swap of a weapon, or any activity on that property which may be a prelude to a sale, purchase or exchange of a weapon at another location, where said singular or organized discharge of weapon(s) is conducted or carried out by the property owner(s), prospective owner(s) or an individual(s) in control or custody of said property, or any manner of visitor, guest, friend, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.

**Outdoor** - An **“Outdoor Shooting Range” shall be any shooting range facility where the activity of discharging a weapon is conducted completely or partially outside of an enclosed structure. All such Outdoor Shooting Ranges shall have defined left and right lateral limits, designated yard lines, specified impact area(s) and demarked surface danger zones.**

**Private** - A private shooting range is a shooting range with restricted entry rights as determined by the **land** owner/operator of such facility whether for commercial or non-commercial purposes. **Such activity wherein the discharge of weapons occurs may be available to individuals or groups without a fee, gratuity, trade or other form of director or indirect compensation, but which may involve the sale or other manner of exchange/trade/barter/swap of a weapon, or any activity on that property which may be a prelude to a sale, purchase or exchange of a weapon at another location, where said singular or organized discharge of weapon(s) is conducted or carried out by the property owner(s), prospective owner(s) or an individual(s) in control or**

**custody of said property, or any manner of visitor, guest, friend, club member, customer and/or patron of the owner, prospective owner or individual in control or custody of said property.**

**Public** - A public shooting range is a shooting range open to the general public with use restrictions as determined by the owner/operator of such facility whether for commercial or non-commercial purposes.

**Target Practice.** A private, non-commercial land use activity not classified as a “shooting range” conducted by a property owner, tenant or guest upon and within the limits of that property owner or tenant’s private property wherein the activity involves the discharge of weapon(s) by one or more individuals that emit projectiles that travel a minimum of fifty (50) feet and which have the capacity to cause/inflict great bodily harm. Such projectile emitting devices may include, but are not limited to, handguns, rifles, shotguns, cannons, mortars and catapults; but typically do not include pellet or air guns, bow/arrows, tazors, slingshots, paintball guns or similar mechanical devices. Further, such activity shall be subject to all State, County and local weapons discharge laws and regulations and shall be confined at all times to the limits of the property controlled by the owner or tenant.

**Weapon.** Any instrument or device of offense or defense in combat; a firearm.

>>>>>

Amend that portion of Table 19.07-A “Permitted and Conditional Uses” relating to recreation under E. Recreational Facilities as follows:

Use	RL-1	RL-2.5	RL-5	Notes
<b><u>E. Recreational Facilities</u></b>				
Racetracks and Stadiums	C	C	C	
Sports oriented recreational facilities requiring remote locations.	C	C	C	Including, but not limited to archery and shooting/gun ranges (subject to the provisions of Section 19.48.030 “Accessory Uses in Residential Districts”), golf courses, hunting clubs, off-road vehicle parks, and tennis and swim clubs.

>>>>>

Amend that portion of Table 19.08-A “Permitted and Conditional Uses” relating to recreation under “B. Residential Accessory Uses” as follows:

Use	RS-4	RS -3	RS-2	RS-1	RS-E	Notes
<b><u>B. Residential Accessory Uses</u></b>						
These uses are permitted only as accessory or incidental to a primary use on the same						

Use	RS-4	RS -3	RS-2	RS-1	RS-E	Notes
property.						
<del>Recreational</del> <b>Non-Commercial</b> Weapons Usage	<i>P*</i>	<i>P*</i>	<i>P*</i>	<i>P*</i>	<i>P*</i>	* Subject to the provisions of Section 19.48.030 Accessory Uses in Residential Districts”.
Second units	P	P	P	P	P	Pursuant to the requirements specified in Chapter 19.53, <i>Second Units</i> .

>>>>>

Amend that portion of Table 19.09-A “Permitted and Conditional Uses” relating to recreation under “B. Residential Accessory Uses” as follows:

Use	RM	Notes
<b><i>B. Residential Accessory Uses</i></b>		
These uses are permitted only as accessory or incidental to a primary use on the same property.		
<del>Recreational</del> <b>Non-Commercial</b> Weapon Usage	<i>P*</i>	* Subject to the provisions of Section 19.48.030 “Accessory Uses in Residential Districts”.
Recreational uses accessory to Multi-family Residential.	P	Includes recreational centers, tot lots and playgrounds, lighted and unlighted courts, and swimming pools and related facilities.

>>>>>

Amend that portion of Table 19.10-A “Permitted and Conditional Uses” relating to recreation under “Entertainment and Recreation” as follows:

Use	CO	CG	CN	CT	Notes
<b><i>Entertainment and Recreation</i></b>					
Simulated shooting games - indoor (laser tag, etc.)	-	P	-	P	
Shooting/ <del>Gun</del> range – <b><i>Indoor</i></b> <b><i>Shooting/Gun range -Outdoor</i></b>	<i>P*</i> -	<i>P*</i> <i>P*</i>	<i>P*</i> -	<i>P*</i> -	* Subject to the provisions of Section 19.10.120 “Commercial and <del>Recreational</del> <b><i>Shooting Range</i></b> ”.

Use	CO	CG	CN	CT	Notes
Skate park	-	C	C	C	

>>>>>

Amend Chapter 19.10 “Commercial Districts” by the addition of a new Section 19.10.120 “Commercial and ~~Recreational~~ **Non-Commercial** Shooting Range” to read as follows:

19.10.120 “Commercial and ~~Recreational~~ **Non-Commercial** Shooting Range”. A land use within the General Commercial (CG) zoning district for the discharge of firearms (all manner of handguns, rifles, shotguns ~~using slugs~~, mortars, catapults, cannons or other projectile emitting devices that may result in great bodily harm, but excluding ~~shotguns using shot of less than “00” size,~~ pellet or air guns, bow/arrows, tazors, slingshots, paintball guns, or similar projectile emitting devices with limited, minimal potential to cause/inflict great bodily harm) by the property owner, his/her invited guests, or to the general public as a public or private, commercial or non-compensated recreational use of the property shall be subject to review and approval by the Planning Commission of a Conditional Use Permit. No such Conditional Use Permit approval shall be granted unless all of the following are met, **in addition to which the Commission may apply** ~~along with any~~ Conditions of Approval that may be ~~required by the Planning Commission~~ **as necessary** to conform to the required “Findings” for approval of a Conditional Use Permit:

- A. The property shall be a minimum of two and one half (2.5) acres in size (Commission please note a typical 330’ by 330’, 2.5 acre lot will not allow a 450’ separation between where a weapon may be discharged and a property line {which may have a habitable structure on the other side}).
- B. The discharge of weapons may only occur between the hours of 7:00 a.m. and 10:00 p.m. consistent with the provisions of Code Section 19.74.080 “Prohibited Noise and Vibration”.
- C. Access to the property for emergency services shall be maintained at all times when the ~~recreational~~ **non-commercial** and/or commercial activity is occurring. In addition, some form of electronic communication equipment capable of contacting appropriate authorities during an emergency shall be available and operational at all time when the ~~recreational~~ non-commercial and/or commercial activity is occurring.
- D. All property owners within five hundred (500) feet of the edges of the property proposed for such **indoor use and one thousand (1,000) feet of the edges of the property proposed for such indoor use** shall be provided with notification of the Public Hearing for the Conditional Use Permit.
- E. At the Public Hearing, the Commission shall consider any and all information regarding issues or concerns that may need to be addressed by the application of appropriate Conditions of Approval prior to the approval of any Conditional Use Permit.
- F. The maximum number of individuals that may participate in or observe the ~~recreational~~ non-commercial and/or commercial activity occurring shall be established by the Commission with its review of the Conditional Use Permit.
- G. Parking shall be based upon the maximum number of individuals that may participate in or observe the ~~recreational~~ non-commercial and/or commercial activity occurring on site as established by the Commission with its review of the Conditional Use Permit, but in no case shall less than one parking space per three (3) participants be provided. Parking space size, location and parking surface requirements shall be in conformance

- with Chapter 19.82 “Off-Street Parking and Loading Requirements” of the Development Code.
- H. All signage on site shall conform to the requirements of Chapter 19.84 “Signs” of the Development Code.
  - I. Weapons may not be discharged in a manner or direction that would allow projectiles, fragments thereof or ricochets thereof to cross over property lines (unless both properties are owned by the same individual{s}), access easements between properties, public rights-of-way or into or onto any **County, State or** Federal lands.
  - J. The discharge of weapons must conform to State law to which no weapon(s) may be discharged within 150 yards from a residential structure (whether occupied or not), except with the property owner’s permission (which removes this restriction).
  - K. The discharge of a weapon(s) over or from a public or private roadway is prohibited.
  - L. A Conditional Use Permit may only be approved where it can be demonstrated that the orientation of the discharge of any weapon shall be in such a manner so as to reasonably ensure the safety of those on-site or to those on surrounding properties. Such discharge shall be oriented towards a “berm” **and/or** “backstop” built, placed and maintained in a manner to prevent projectiles from exiting the approved property(ies).
  - M. No Conditional Use Permit shall be approved for a property located adjacent to an existing residential neighborhood with lots of less than one acre in size, or within one thousand (1,000) feet of an existing public park, campground, playground or public/private school, or within five hundred (500) feet of any hospital, church, residential care facility, senior housing facility, animal care facility, bar, casino, the Joshua Tree National Park or any **County, State or** Federal lands.
  - N. Copies of standardized “Range Safety Guide” rules and procedures must be available on site at all time and shall be followed at all times.
  - O. An individual professionally associated with the commercial shooting range shall be on site at all times when customers/patrons are on site and actively engaged in the activity of discharging weapons.
  - P. Commercial, retail sales, trade, exchange or transfer of ownership may occur upon the site as approved by the Planning Commission in its review of the required Conditional Use Permit. **Any such retail sales, trade, exchange or transfer of weapons activity may include the sale of ammunition, if such sale is approved by the Planning Commission in its review and approval of the required Conditional Use Permit.**
  - Q. A private, non-commercial indoor shooting range consisting of an enclosed structure where the discharge of weapons is taking place from which projectiles cannot escape, may be approved with a reduction in the above standards consisting of a minimum lot size of one (1) acre, operating hours of between 6:00 a.m. and midnight, the orientation of the weapon(s) discharge need not be towards a “berm” or “backstop”, and all separation requirements may be reduced to one hundred (100) feet. In addition to the above, any indoor shooting range must conform to all State air quality standards, **and must conform to all State and Federal laws and regulations pertaining to weapons.**
  - R. Any of the above **City** standards may be waived or reduced by the Planning Commission under review of a Conditional Use Permit where it can be demonstrated with appropriate documentation for the record that such standards are not needed for the safety of those person(s) on-site or upon the surrounding properties. **County, State and Federal regulation may not be modified or waived by the Planning Commission.**
  - S. Although a shooting range operated by, for or as a “private club”, shall be subject to the above standards and requirements, an Administrative Weapons Discharge Permit may be approved in lieu of a Conditional Use Permit.

A “private” or “public” pistol, rifle, gun, shooting or open air range shall be determined to be a commercial or non-commercial range depending upon the nature of the land use activity being conducted as defined herein.

***A private or public, commercial or non-commercial indoor shooting range consisting of an enclosed structure where the discharge of weapons is taking place from which projectiles cannot escape, may be approved with a reduction in the above standards consisting of a minimum lot size of one (1) acre, operating hours of between 6:00 a.m. and midnight, the orientation of the weapon(s) discharge need not be towards a “berm” or “backstop”, and all separation requirements may be reduced to one hundred (100) feet. In addition to the above, any indoor shooting range must conform to all State air quality standards.***

Failure to conform to the above standards and/or any Conditions of Approval imposed by the Planning Commission in its approval of a Conditional Use Permit shall constitute a violation of the Municipal Code subject to the following: The first and second violation(s) shall subject the property owner or business owner/licensee to an infraction citation subject to a fine. The third and subsequent violations shall subject the property owner or business owner/licensee to citation as a misdemeanor. Each day of violation shall be considered a new and separate violation of the Municipal Code subject to a new citation.

>>>>>

Amend that portion of Table 19.12-A “Permitted and Conditional Uses” relating to recreation under “Entertainment and recreation” as follows:

Use	CS	IC	Notes
<b><i>Entertainment and Recreation</i></b>			
Recording and sound studios	P	P	
Shooting/ <b><i>Gun</i></b> range	<b><i>C*</i></b>	<b><i>C*</i></b>	* Subject to the provisions of Section 19.12.120 “Commercial and <b><i>Non-Commercial Recreational Shooting Range</i></b> ”.
Skate park	C	C	

A new Section 19.12.120 “Commercial and ~~***Non-Commercial Recreational***~~ Shooting Range” to match that proposed for 19.10.120 note above shall be placed within Chapter 19.12.

>>>>>

Amend that portion of Table 19.14-A “Permitted and Conditional Uses” relating to residential accessory uses under “Residential Accessory Uses” as follows:

Use	OSR	Notes
<b><i>B. Residential Accessory Uses</i></b>		
These uses are permitted only as accessory or incidental to a primary use on the same property.		

Use	OSR	Notes
Home occupations	P	Subject to permits and requirements specified in Chapter 19.36 <i>Home Occupations</i> .
<del>Non-Commercial Recreational</del> Weapon Usage	*	* <b><i>Subject to the provisions of Section 19.48.030 “Accessory Uses in Residential Districts”.</i></b>
Second units	P	Second dwelling units must be detached. Manufactured and Mobile homes may be allowed if they comply with the requirements Chapter 19.53, <i>Second Units</i> .

>>>>>

Chapter 19.48 “Accessory Buildings and Uses” by the addition of a new Subsection “F” to Section 19.48.030 “Accessory Uses in Residential Districts” to read as follows:

**19.48.030 Accessory Uses in Residential Districts.** The following uses shall be permitted as accessory uses to each single dwelling unit which is allowed:

- F. Accessory use of land within the residential zoning districts for the discharge of firearms (all manner of handguns, rifles, shotguns using slugs, mortars, catapults, cannons or other projectile emitting devices that may result in great bodily harm, but excluding ~~shotguns using shot of less than “00” size,~~ pellet or air guns, bow/arrows, tazors, slingshots, paintball guns, or similar projectile emitting devices with limited, minimal potential to cause/inflict great bodily harm) by the property owner or his/her invited guests as a private, non-compensated recreational use of the property shall be subject to review and approval of an Administrative Weapons Discharge Permit. No such Administrative approval shall be granted unless all of the following are met:
1. The property shall be a minimum of two and one half (2.5) acres in size.
  2. The discharge of weapons may only occur between the hours of 7:00 a.m. and 10:00 p.m. consistent with the provisions of Code Section 19.74.080 “Prohibited Noise and Vibration”.
  3. Access to the property for emergency services shall be maintained at all times when this ~~non-commercial recreational~~ activity is occurring.
  4. All property owners within ~~five three~~ hundred (500) feet of the edges of the property proposed for such ***indoor use of one thousand 1,000 feet of the edges of the property proposed for such outdoor use*** shall be provided with notification of the proposed use, giving these owners a minimum of ten (10) days to bring to the attention of the City issues or concerns that may need to be addressed prior to the approval of any Administrative Permit.
  5. Weapons may not be discharged in a manner or direction that would allow projectiles, fragments thereof or ricochets thereof to cross over property lines (unless both properties are owned by the same individual{s}), access easements between properties, public rights-of-way or into or onto any ***County, State or*** Federal lands.
  6. The discharge of weapons must conform to State law to which no weapon(s) may be discharged within 150 yards from a residential structure (whether occupied or not), except with the property owner’s permission (which removes this restriction).

7. The discharge of a weapon(s) over or from a roadway is prohibited.
8. An Administrative Weapons Discharge Permit may only be approved where it can be demonstrated that the orientation of the discharge of any weapon shall be in such a manner so as to reasonably ensure the safety of those on-site or to those on surrounding properties. Such discharge shall be oriented towards a "berm" or "backstop" built, placed and maintained in a manner to prevent projectiles from exiting the approved property(ies).
9. No signage of the name, location or nature of the facility shall be allowed.
10. Parking shall be based upon the maximum number of individuals that may participate in or observe the ~~non-commercial recreational~~ activity occurring on site as established by the Community Development Department with its review of the Administrative Weapons Discharge Permit, but in no case shall less than one parking space per three (3) participants be provided. Parking space size requirements shall be in conformance with Chapter 19.82 "Off-Street Parking and Loading Requirements" of the Development Code. The location of said stalls shall be placed to reasonably ensure the safety of those on-site. The required parking surface for the first three (3) parking stalls shall be at the discretion of the Community Development Department with the review of the Administrative Weapons Discharge Permit; where more than three (3) stalls are required, all such stalls shall be placed upon a paved surface (including access thereto and back-up space) as prescribed in Chapter 19.82 "Off-Street Parking and Loading Requirements" of the Development Code.
11. An Administrative Weapons Discharge Permit may not be approved for any form of commercial activities involving the sale or exchange in any manner of identified weapons, nor as a prelude to a sale, purchase or exchange of identified weapons at another location. Such sale or any manner of exchange, or an activity that is a prelude to a sale, purchase or exchange at another location (considered a commercial activity) may be considered by the Planning Commission under review of a Conditional Use Permit as required under Section 19.10.120 "Commercial Gun/Shooting Range". **Any such retail sales, trade, exchange or transfer of weapons activity may include the sale of ammunition, if such sale is approved by the Planning Commission in its review and approval of the required Conditional Use Permit.**
12. No Administrative Weapons Discharge Permit shall be approved for a property located adjacent to an existing residential neighborhood with lots of less than one acre in size, or within one thousand (1,000) feet of an existing public park, campground, playground or public/private school, or within five hundred (500) feet of any hospital, church, residential care facility, senior housing facility, animal care facility, bar, casino, the Joshua Tree National Park or any **County, State or** Federal lands.
13. Any of the above **City** standards may be waived or reduced by the Planning Commission under review of a Conditional Use Permit where it can be demonstrated with appropriate documentation for the record that such standards are not needed for the safety of those person(s) on-site or upon the surrounding properties. **County, State and Federal regulation may not be modified or waived by the Planning Commission. Further, no "commercial" range (a commercial land use) may be approved by the Commission within a residential zoning district.**
14. A private, non-commercial indoor shooting range consisting of an enclosed structure where the discharge of weapons is taking place from which projectiles cannot escape, may be approved with a reduction in the above standards

consisting of a minimum lot size of one (1) acre, operating hours of between 6:00 a.m. and midnight, the orientation of the weapon(s) discharge need not be towards a “berm” or “backstop”, and all separation requirements may be reduced to one hundred (100) feet. In addition to the above, any indoor shooting ranges must conform to all State air quality standards.

A “private” or “public” pistol, rifle, gun, shooting or open air range shall be determined to be a commercial or non-commercial range depending upon the nature of the land use activity being conducted as defined herein.

A private or public, commercial or non-commercial indoor shooting range consisting of an enclosed structure where the discharge of weapons is taking place from which projectiles cannot escape, may be approved with a reduction in the above standards consisting of a minimum lot size of one (1) acre, operating hours of between 6:00 a.m. and midnight, the orientation of the weapon(s) discharge need not be towards a “berm” or “backstop”, and all separation requirements may be reduced to one hundred (100) feet. In addition to the above, any indoor shooting ranges must conform to all State air quality standards.

*(Please note that once an Administrative Permit is approved, that Permit runs with the land and is in place until the use is abandoned for more than 180 consecutive days.)*

As noted within the February 15<sup>th</sup> Public Hearing report, while the provisions proposed herein shall affect and regulate the lawful discharge of firearms or weapons within the City of Twentynine Palms as a land use issue, nothing within this material, nor any that may ultimately be adopted by the City Council, shall be taken or construed to prohibit the discharge of any firearm or weapon in the course of self-defense. Any such actions are a matter to be addressed by the Penal Code and handled through appropriate law enforcement channels.

### **CEQA Environmental Review**

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), the proposal has been reviewed for its potential to impact the environment. It has been determined that the proposal, consisting of a Study Session to discuss a possible amendment to the language of the Development Code, which in and of itself is only a narrative change to the rules applicable within the City, cannot by itself have a direct impact upon the environment. As such, under the provisions of Government Code Section 15262 “Feasibility and Planning Studies” a discussion of a possible change to the narrative of the Development Code is exempt from further CEQA review.

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

Any Development Code Amendment analyzed and considered for adoption by the City Council may affect specific zones or the community as a whole. With guidance from the Commission, staff shall be provided with the details of the specific zones that shall be affected by the proposed Code change and thus have the opportunity to address this standard section of Commission Public Hearing reports. At that time, staff shall provide the Commission with Goals and Policies from the General Plan to illustrate how the proposed Amendment does or does not conform to those Goals and Policies.

### **Site Characteristics**

Similar to General Plan and Zoning designations noted above, once the Commission provides guidance to staff and draft language is proposed, staff shall provide the Commission with appropriate and applicable site characteristics.

### **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 in a positive manner prior to recommending or adopting a Development Code Amendment (listed below). Following receipt of guidance from the Commission and drafting of proposed language, staff shall provide the Commission with comments to address each Finding for consideration and possible adoption, forwarding its recommendation to the City Council.

- A. The Zone Change or Development Code Amendment is consistent with the intent of the goals and policies of the General Plan; and
- B. The Zone Change or Development Code Amendment prescribes reasonable controls and standards to ensure compatibility with other established uses; and
- C. The Zone Change or Development Code Amendment provides reasonable property development rights while protecting environmentally sensitive land uses and species; and
- D. The Zone Change or Development Code Amendment ensures protection of the general health, safety, and welfare of the community.

### **Approval Process**

Under the provision of Development Code Section 19.22.040 "Approval Authority and Notification" (for Development Code Amendments) the Planning Commission is the Review Authority for any changes to the Development Code, with the City Council being the Approval Authority. With the Commission's adoption of proposed new language, or rejection of the concept to change the Code relative to the discharge of firearms, at a Public Hearing by the adoption of a Commission Resolution, a recommendation shall be forwarded to the Council for its final action.

### **FISCAL IMPACT**

No fiscal impact, positive or negative, is expected at this time with the proposed amendment of the Municipal or Development Code relative to the establishment of new allowances, procedures or prohibition of the discharge of firearms within the community of Twentynine Palms.

**TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY**  
**6136 Adobe Road**  
**Twentynine Palms, CA 92277**  
**www.ci.twentynine-palms.ca.us**  
**TUESDAY, FEBRUARY 15, 2011**  
**6:00 P.M.**

**MINUTES (EXCERPT)**

- 1.0 CALL TO ORDER-** Chair Easter called the meeting to order at 6:00 p.m.  
**PLEDGE OF ALLEGIANCE-** Vice Chair Alderson led the Pledge of Allegiance.  
**ROLL CALL-** The following Commissioners were present: Alderson, Benton, Mendoza, Whitten and Easter.

>>>>>>

**7.0 PUBLIC HEARINGS**

- 7.1 PC 09-76 – A possible amendment to the Land Use Tables of the City's Development Code regarding commercial and non-commercial shooting ranges and the discharge of firearms within all zoning districts.

**RECOMMENDATION:** Staff recommends the Planning Commission provide guidance and possible language on the discharge of firearms issue, and then continue the items to an appropriate future Commission meeting date to allow staff to draft proposed language for additional consideration.

Community Development Director LaClaire presented a staff report to the Planning Commission. He noted that the asterisks in the charts on page seven (7) ,eight (8) and ten (10) would be edited to reflect if the item were Permitted, Conditionally Permitted, Minor Use Required or Prohibited and would be edited after the meeting tonight to reflect the appropriate letter of P, C or M when the item comes back.

Chair Easter opened the Public Hearing.

Zander Hardin, Twentynine Palms, spoke in favor of shooting ranges in the City.

Jim Burdett, Twentynine Palms, said to look at areas that are not going to impact the public because things such as noise echoes off the mountains.

Steve Douth, Twentynine Palms, spoke in favor of item 7.1.

Chair Easter closed the Public Hearing.

Commissioner Whitten said there are definitions missing from page six (6) of the staff report. He requested definitions needed to be included such as target practice, left lateral limit, right lateral limit and indoor range.

Consensus of the Planning Commission was to add the words "County and State lands" to the end of items I on page nine (9), M on page ten (10) and on page thirteen (13) to item number twelve (12).

Vice Chair Alderson suggested increasing the notification distance on commercial or residential shooting ranges.

Consensus of the Planning Commission was to increase the notification range to reflect that outdoor ranges would be 1,000 feet and 500 feet for indoor ranges and for private residential 300 feet.

Commissioner Benton suggested changing the word "or" to "and" on page 10, section L, in the third sentence of the paragraph.

Director LaClaire responded he could change it to read "and/or".

Consensus of the Planning Commission was the Planning Commission would review the form that is needed to review/approve an Administrative Weapons Discharge Permit to assess the submission and approval requirements.

Commissioner Whitten said he would like to bring the item back for a study session.

Chair Easter re-opened the Public Hearing.

Steve Doult, Twentynine Palms, said there needs to be a definition of the structure when discussing "indoor" shooting ranges.

Zander Hardin, Twentynine Palms, spoke in support of shooting ranges.

Jim Burdett, Twentynine Palms, said the echo from the guns due to the mountains can be very loud and can disrupt residential enjoyment.

ACTION: On a motion made by Commissioner Mendoza, seconded by Commissioner Whitten and carried with a 5-0 roll call vote, the Planning Commission will have a study session on the item at the regularly scheduled March 15, 2011 Planning Commission meeting and continued the Public Hearing to the regularly scheduled April 19, 2011 Planning Commission meeting.

>>>>>

**12.0 ADJOURNMENT-** Chair Easter adjourned the meeting at 7:35 p.m.

Respectfully Submitted,

---

Jacqueline Palmer, Deputy City Clerk

