



**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: April 11, 2011

For Commission Meeting Of: April 19, 2011

SUBJECT: PC 09-76 - An 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

That the Planning Commission open the open, continued Public Hearing, receive comments from the public germane to the issue (those that elect not to comment at the Study Session), then continue the Public Hearing to May 17, 2011, following the conclusion of the scheduled Study Session.

Attachment:

Minute Excerpt from Commission meeting of February 15, 2011

ORDER OF PROCEDURE

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

PROJECT DESCRIPTION

A possible Development Code Amendment (PC 09-76) to 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

The Commission is familiar with this issue from the Public Hearing of January 18th and February 15th, 2011, and the Study Session of March 15, 2011. These 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 23rd 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 two years.

At its meeting of February 15, 2011, the Commission received audience comments from three (3) individuals. These individuals expressed concerns that the City needs to allow, but control, ranges and that they should be allowed but in a manner that would not disturb surrounding property owners. One member concluded that allowing weapons and ranges support shooting opportunities that are needed by sportsmen, hunters and those interested in self defense. Following the receipt of these comments, the Commission discussed the material within the Public Hearing report and provided extensive guidance to staff on a variety of details within the written material. At the conclusion of the discussion, the Commission elected to continue the Public Hearing to its regularly scheduled meeting of April 19, 2011 and directed that a Study Session be held on March 15, 2011.

At its regularly scheduled meeting of March 15, 2011, the Commission conducted a Study Session on the issue of standards for “shooting” ranges. Details of that meeting are contained within the continued Study Session’s report for tonight’s meeting.

Analysis:

As the Commission shall be conducting the “continued” Study Session on the issue of amending the Development Code regarding shooting ranges later at tonight’s regularly scheduled meeting, it is suggested that the Code Amendment be continued for at least thirty (30) days, to the regularly scheduled Commission meeting of May 17, 2011, to allow the Commission the opportunity to complete its review of the topic at the Study Session and afford staff the opportunity to change the language in support of the guidance given by the Commission.

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 an amendment to the language of the Development Code, a narrative change to the rules applicable within the City, cannot by themselves have a direct impact upon the environment. As such, under the provisions of Government Code Section 15305 “Minor Alterations in Land Use Limitations” a 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 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 (EXCERPTS)

- 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.

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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 Doutt, 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.

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9.0 ADJOURNMENT- Chair Alderson adjourned the meeting at 7:35 p.m.

Respectfully Submitted,

Jacqueline Palmer, Deputy City Clerk



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

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

TO: Planning Commission
FROM: Community Development Director
DATE: April 13, 2011

FOR COMMISSION MEETING: April 19, 2011

SUBJECT: PC 11-18 – Appeal of the Community Development Director’s interpretation of how to apply Development Code Section 19.48.030 “Accessory Uses in Residential Districts” regarding a proposed metal carport.

RECOMMENDATION

Open the discussion, consider public comment and determine whether the Community Development Director interpreted the requirements of Code Section 19.48.030 “Accessory Uses in Residential Districts” correctly as it would apply to the proposed RV carport.

ORDER OF PROCEDURE

- Request Staff Report (Charles LaClaire Presenting)
- Commission Questions of Staff
- Open to Public Comment
- Commission Discussion
- Motion/Second
- Discussion of Motion
- Call the Question

Attachments
1. Applicant Drawn Site Plan
2. Design Information
3. Aerial/Surrounding Properties
4. Development Code Section 19.48.030 “Accessory Uses in Residential Districts”

PROJECT DESCRIPTION

Appeal of the Community Development Director’s interpretation of Development Code Section 19.48.030 “Accessory Uses in Residential Districts” regarding the architectural requirements applicable to an accessory structure that would apply to the proposed construction of a metal Recreational Vehicle (RV) cover/carport structure.

BACKGROUND

At its meeting of April 5, 2011 the Commission initiated its review of an Appeal filed by applicant Carl (C.J.) Horn with regard to the denial of his Building Permit to install a metal Recreational Vehicle (RV) cover/carport upon his property located at 5789 La Luna (APN 0618-073-25), Twentynine Palms. At the April 5th Public Hearing, the Commission received a staff presentation, comments from Mr. Horn and debated the issue amongst its members. Some Commissioners expressed a desire to allow the proposed structure due to the nature of the proposed structure and as the applicant had committed money to the metal cover. It was also suggested that the cover/carport could be approved awaiting the outcome of a Code Amendment, and subsequently modified if the Code Amendment required such modifications. While debate amongst the Commissioners examined the difference between a “building” and “structure”, at least one Commissioner clearly stated a belief that the carport as proposed does not meet the letter of the Code as written.

It is important to note that the Commission is currently reviewing, at a Study Session, the Development Code relative to allowed assessor structures and architectural compatibility requirements (see Study Session, PC 11-09, April 19, 2011). That Study Session examines the current Code requirements, the definition of structure, building and compatibility, and the possibility of using Code Section 19.48.030 "C" ("Non-habitable accessory facilities such as a cabana, play yard, tennis court, porch, ramada {porch/trellis}, awning, patio slab, water tower and well, swimming pool, storage buildings and similar uses") as the standard for structures such as the "non-habitable", metal cover/carports requested by the applicant.

As was noted within the Public Hearing report for the Commission's meeting of April 5, 2011, the metal roofed and partially metal sided structure shall measure eighteen feet (18') by forty-two feet (42'), with a footprint totaling 756 square feet. The structure shall consist of a metal pole framework forming a peaked RV "carport" of fourteen (14) feet in height, without eaves and with metal siding that extends from the roof to approximately six (6) feet from the ground (See Design Information attached). The all metal structure is proposed to be located to the rear of the home on site, utilizing the existing home to shield the view of the RV cover/carport from the public right-of-way (See Site Plan attached). Although partially shielded from view from the public street by the home on site, portions of the proposed structure shall still be visible from the street and clearly visible from neighboring and adjoining properties.

The existing one-story, 1,886 square foot home is located on a lot of 301 foot by 110 foot (33,110 square feet or 0.76 acres), situated within the RS-4 Single-Family Residential zoning district (See attached Aerial). The existing home is treated with stucco siding material (non-reflective), eaves of between eighteen (18) and twenty-four (24) inches, a sloped roof covered with asphalt shingles and stucco window pop-outs as decorative treatments. As the proposed cover/carport consists of metal roofing and flat, smooth siding, lacks an eave overhang and has no vertical or horizontal accents to mimic the main home, staff did not consider the appearance of the cover/carport to be architecturally compatible with the main home which trigger the denial of the requested Building Permit and the Appeal to the Planning Commission.

Surrounding the property in question are single-family residential homes, all one-story in nature, with stucco siding, predominantly asphalt shingled roofing and various, but minimal, decorative treatments or architectural relief features (such as window surrounds and pop-out, archways, rock and/or stucco columns). As may be seen upon the attached aerial of the neighborhood, only a few properties have accessory structures. As was noted previously, a field investigation of the neighborhood revealed that within the immediate area two (2) homes have small metal sided/roofed buildings without eaves (neither appear to be over 200 square feet in size). In addition, it was observed that two (2) properties have one cargo container each; neither of which are provided with any architectural or decorative treatments.

Code Provision

Listed below is an excerpt from the Development Code Section in question (the entire Section is 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:

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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).

ANALYSIS

Currently, under the provisions of Development Code Section 19.48.030 "Accessory Uses in Residential Districts" the Code requires that "All accessory buildings shall be required to be architecturally compatible with the main structure(s)." Although this requirement is preceded by a provision (requirement) that states "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", and the Appeal applicant is proposing a metal RV cover/carport which can be described as a non-habitable accessory facility, subsection 19.48.030 "D" states that "The following *additional* (emphasis added) regulations shall apply" to accessory structures and goes on to require in paragraph "1" architectural compatibility.

Staff has interpreted the above requirement, architectural compatibility, to mean that whenever an accessory structure is proposed within the community, that proposed accessory structure must have the fundamental characteristics (appearance, texture, style and architectural/decorative features or complimentary 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 tile simulation material), and physical features such as eaves and notable architectural decorations (for example, vertical accents, window surrounds or "pop-outs", etc.).

Under the above interpretation of this Code provision, staff believes that this is a prudent and fair interpretation of the written material. Thus, as the proposed RV carport is inconsistent with the primary structure on site (home) in the manner as listed below, it could not be approved.

The home does not have smooth, flat metallic appearing exterior siding, and/or potentially reflective siding;
The proposed RV carport exterior walls do not cover the sides of the structure to the ground;
The roofing material does not resemble, imitate or compliment the roofing of the home;
The proposed RV carport does not have eaves; and,
The proposed structure has no architectural enhancements to match, compliment or imitate the main home.

The Commission may examine the language within the Code, however, and provide an alternative interpretation of the material on how to apply the Code. The Commission must be aware, however, that whatever interpretation and application that is provided to this request shall be carried forth to other future requests for accessory structures once the precedent is set. The following is provided, as it is with the Accessory Building Study Session material, for consideration by the Commission. It is noted that under the definitions provided below, "All accessory buildings ('Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind') shall be required to be architecturally compatible with the main structure(s)."

Definition of "Compatible" – Webster's New Universal Unabridged Dictionary 1983.

"Capable of living together harmoniously or getting along well together; in agreement; congruous."

Definition of "Compatible" – Merriam-Webster dictionary (2011) (Internet).

1. Capable of existing together in harmony.

2. Capable of cross-fertilizing freely or uniting vegetatively.
3. Capable of forming a harmonious mixture that neither separates nor is altered by chemical interaction.
4. Capable of being used in transfusions or grasping without immunological reaction (as agglutination or tissue rejection).
5. Designed to work with another device or system without modification; is specially: being a computer designed to operate in the same manner and used the same software has another computer.

Definition from Development Code – Chapter 19.06 “Definitions”

“Building” - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind.

“Building, Primary” - A building in which the principal use is conducted.

“Structure” - A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Definition from Building Code -2010

“Building” – Any structure used or intended for supporting or sheltering any use or occupancy.

“Structure” – That which is built or constructed.

Definition from Health and Safety Code

Section 17920

“Building” means a structure subject to this part.

The Commission may find, however, that although the exterior of the home is stucco and the exterior of the RV cover/carport is smooth and minimally reflective, this difference is not inharmonious and that these structures can be viewed together without a specific adverse visual reaction, and that these structures can be accepted as congruous (appropriate) when compared to one another. Further, although the RV cover/carport does not have siding that extends to the ground (as do the walls of the home), has no decorative features to mimic the home, nor eaves or roofing material similar to the main home, it will have a pitched roofline, it can be painted with a similar or complimentary color to the main home and it shall be mostly shielded from view from the street by the main home on site. As such, all of these illustrate how the proposed cover/carport can be seen as being in harmony (non-conflicting) with the main home on site and surrounding properties, how it can be accepted as “getting along” and/or being in agreement (capable of existing together in harmony) with the appearance of the main home, as well as be determined to be appropriate for the property as it does not directly create a visual conflict with the appearance of the main home and may even be seen as complimentary to the main home.

With the above articulated, it may also be stated that although staff, the Commission or the applicant may be able to craft language or string words together to describe a phrase that would allow the Commission to approve the specific Appeal request, the basic or fundamental question still remains relative to the letter and intent of the Code. If the letter of the Code is as interpreted by staff, and the Commission believes that the intent should be something different,

then new language needs to be created to accurately reflect that intent. If, however, the Commission believes the letter of the Code and the intent are consistent, then the Code may stand as written.

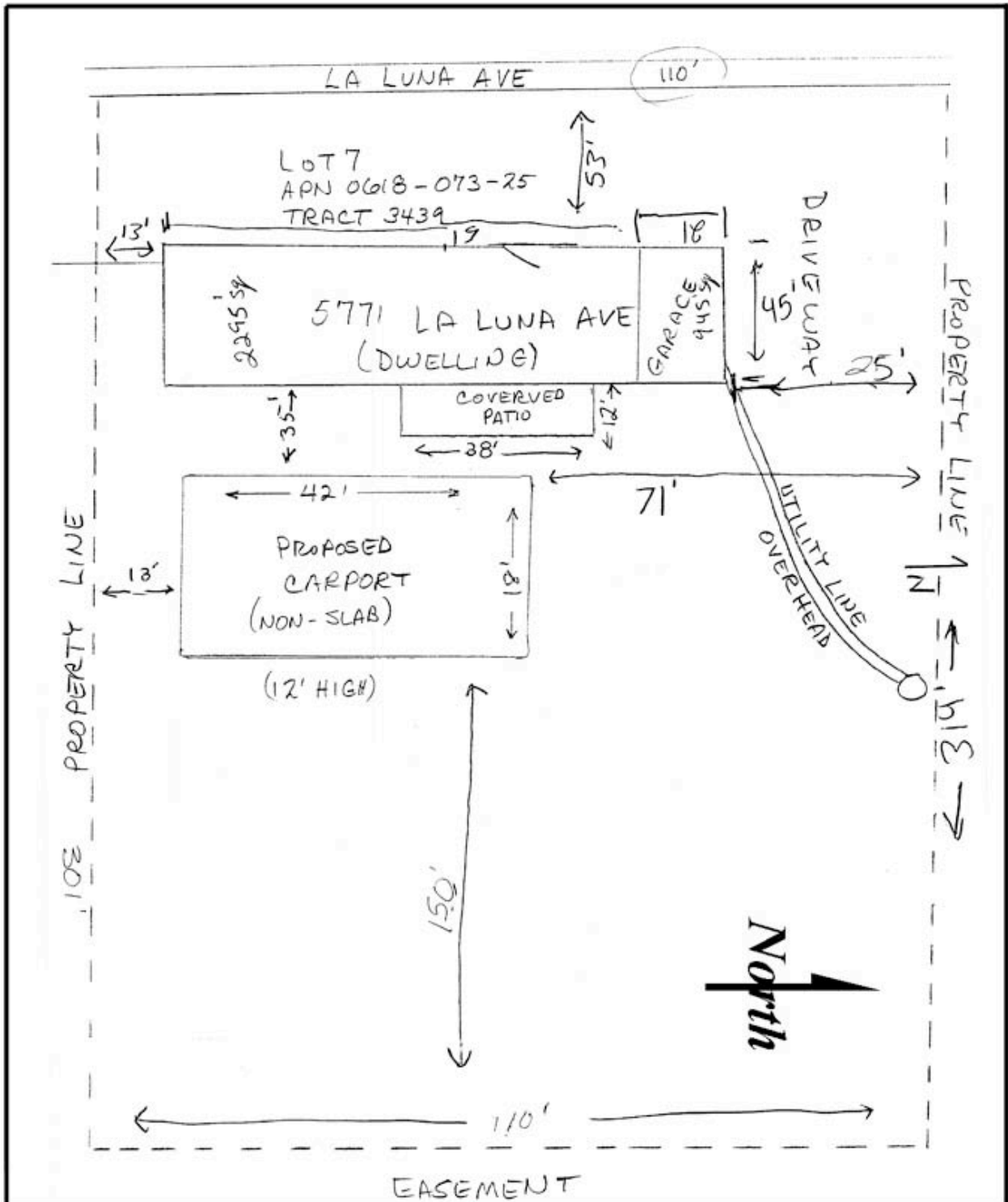
To address the present Appeal request, the Commission may identify that it is currently reviewing the Code pertaining to Accessory Structures and advise the applicant that until the Commission has completed its review, no decision on the request shall be rendered. This direction, however, places the applicant in limbo, as the Commission is not acting upon the Appeal, allowing the applicant to move ahead or appeal that decision to the Council if so desired. Alternatively, the Commission may interpret the Code to grant the Appeal, may deny the Appeal allowing the applicant to change their planned cover/carport or appeal the decision to the Council, or the Commission may forward the Appeal to the Council to render a final decision.

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 decision as to how to apply an existing Code provision addressing accessory structures, cannot by itself have a direct impact upon the environment. As such, under the provisions of Government Code Section 15303 (new construction of small structure) the request is exempt from further environmental review.

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 (Planning Commission) or adopting (City Council) a Development Code Amendment.



<p>Applicant Drawn Site Plan</p>		<p>PC 11-18 April 19, 2011</p>
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OWNER:
AMERICAN CARPORT

LOCATION: **CALIFORNIA**

DRAWING NO.: **AMS-18**

DATE: **5/4/2010**

PROJECT NUMBER:
233-10-0347

DRAWN BY: **JMS**

CHECKED BY: **OA**

A & A ENGINEERING
CIVIL • STRUCTURAL

5911 Rembrandt Pl., Suite 110 Tel: (419) 292-1985
Toledo, Ohio 46023 Fax: (419) 262-0955

DRAWING TITLE:
COVER

SHEET NO.: **1 OF 9**



DATE SIGNED: **7/21/2010**

AMERICAN CARPORT INC.

457 N. BROADWAY
JOSHUA, TX 76058
MAIN - 1-866-730-9865
FAX - 1-866-730-2354



REGULAR / A-FRAME - VERTICAL / HORIZ.
18' CARPORT
(STATE OF CALIFORNIA)
AS PER DESIGN CRITERIA

DESIGN NOTES	DESIGN CRITERIA	DRAWING INDEX
<p>1. ALL CONSTRUCTION SHALL BE PROVIDED IN ACCORDANCE WITH BC 2006, OSRA, ASCE, ASCE7-05, AWS D 1.1 CODES AND ALL APPLICABLE LOCAL REQUIREMENTS.</p> <p>2. SHELTER BASE CONNECTIONS SHALL BE PROVIDED AS SHOWN ON SHEET 9</p> <p>3. ALL MATERIALS IDENTIFIED BY MANUFACTURER NAME MAY BE SUBSTITUTED WITH MATERIAL EQUAL OR EXCEEDING ORIGINAL CONNECTIONS.</p> <p>4. ALL SHOP CONNECTIONS SHALL BE WELDED CONNECTIONS.</p> <p>5. ALL FIELD CONNECTIONS SHALL BE TENS #12 (1/4"x1/2")</p> <p>6. STEEL SHEATHING SHALL BE 29CA CORRUGATED GALV. OR PAINTED STEEL - MAIN RIB HT. 3/4" (P-Y=60KSI) OR 1.0.</p> <p>7. ALL STRUCTURAL LIGHT GAUGE TUBING AND CHANNELS SHALL BE GRADE 50 STEEL.</p>	<p>PREVAILING CODE: CBC 2007 USE GROUP: U (CARPORTS, BARN)</p> <p>BASIC WIND VELOCITY: 90 TO 100 MPH (SEE SCHEDULE)</p> <p>ROOF DEAD LOAD: 2.0 PSF ROOF LIVE LOAD: AS PER GROUND SHOW MIN. 20 PSF / MAX. 30 PSF</p> <p>GROUND SNOW LOAD: 20 TO 40 PSF (SEE SCHEDULE)</p> <p>IMPORTANCE FACTOR = SNOW 0.9 WIND 0.57 SEISMIC 1.0</p> <p>SEISMIC DESIGN CATEGORY: D</p> <p>LOAD COMBINATIONS: DL+L+EQ+WT DL+0.75LL+0.75WL</p>	<p>1.....COVER SHEET</p> <p>2.....FLOOR PLAN</p> <p>3.....REGULAR / A-FRAME BLDG. SECTIONS</p> <p>4.....SIDE ELEVATIONS</p> <p>5.....SECTION DETAILS</p> <p>6.....END WALL DETAILS</p> <p>7.....OPENING DETAILS</p> <p>8.....LEAN-TO OPTION</p> <p>9.....ANCHORAGE</p>

THE INFORMATION CONTAINED IN THESE DRAWINGS ARE THE SOLE PROPERTY OF A & A ENGINEERING. NO PART OF THIS DRAWING TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF A & A ENGINEERING IS PROHIBITED.

Design Information



PC 11-18
April 19, 2011



Aerial



**PC 11-18
April 19, 2011**

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 (Continued)
From: Community Development Director
Date: April 11, 2011

For Commission Meeting Of: April 19, 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, 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 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, citywide.

Attachment:

Minute Excerpt from Commission meeting of March 15, 2011 (Draft Minutes not yet officially approved)

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, February 15 and March 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 Council 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 23rd 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 February 15, 2011 meeting, the Commission reviewed draft language offered to address the answers given to the questions discussed at the January 18th meeting. At the February 15th 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 (March 15, 2011), 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).

At its Study Session of March 15, 2011, the Commission requested information from the County relative to firearm allowances within the County, and asked that staff provide information and/or Code from other communities. In addition to Commission questions, two (2) individuals commented upon the potential for new standards at the Study Session. One individual expressed concerns over possible noise and safety problems, citing ever increasing population in the lower density residential zones. While the other citizen commented upon County standards (allowance map), how people are confused as to what's allowed, that allowances should be made within the Code relative to "non-lethal" weapons, removing "tazors" from the weapons list, but restricting shotguns the same as all weapons, changing "Federal" land to

reference only “National Park” areas, and noted the State’s restriction on shooting to between one-half hour after sunrise and one-half hour after sunset. Following these comments, the Commission discussed the issues raised and continued the Study Session to the regular meeting of April 19, 2011.

Analysis:

At its Study Session of March 15, 2011, the Commission renewed 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 report, the Commission questioned some details of the proposed language but wished to review what other communities (and the County of San Bernardino) had with regard to limitations and regulations. Attached is the information from both the State of California and County of San Bernardino regarding firearm rules. It is noted that although the County is preparing a new map to illustrate where the discharge of firearms is allowed, and to what extent, that draft map still excludes the City of Twentynine Palms (as does the current map).

Regarding standards and regulations from other communities, staff requested a “Listserve” response from the League of California Cities website. This service allows individual staff planners to quarry all cities in California on specific questions, requesting feedback or responses. With the question originally distributed on March 16, 2011, staff has received two (2) responses to date. Of these two (2) responses, neither provided information that would assist the Commission in review of possible new rules and regulations regarding shooting ranges or the discharge of weapons.

Within the language presented at the March 15th Study Session, only the reference to the use of “00” shotgun pellets was raised, with the possible use of a maximum size of shot when compared to the “bore” of the weapon offered for consideration for inclusion within the Code as a substitution from the “00” designation.

With consideration of the above, and assuming the Commission retains the material provided for the March 15th Study Session, the following is the proposed language that the Commission may discuss, consider and provide direction upon to staff so that it may then be modified (per the Commission’s direction) and returned at a future additional Study Session or Public Hearing.

The material below is that which was provided at the Commission’s February 15th Public Hearing as modified per direction. 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, tazors, 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.

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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
<u>E. Recreational Facilities</u>				
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.

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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
<u>B. Residential Accessory Uses</u>						
These uses are permitted only as accessory or incidental to a primary use on the same property.						
Recreational Non-Commercial Weapons Usage	P*	P*	P*	P*	P*	* 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
<u>B. Residential Accessory Uses</u>		
These uses are permitted only as accessory or incidental to a primary use on the same property.		
Recreational Non-		* Subject to the provisions of Section 19.48.030

Use	RM	Notes
<i>Commercial</i> Weapon Usage	<i>P*</i>	“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.

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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
<i>Entertainment and Recreation</i>					
Simulated shooting games - indoor (laser tag, etc.)	-	P	-	P	
Shooting/ <i>Gun</i> range – <i>Indoor</i>	P*	<i>P*</i>	P*	P*	* Subject to the provisions of Section 19.10.120 “Commercial and <i>Non-Commercial</i> Recreational Shooting Range”.
<i>Shooting/Gun range -Outdoor</i>	-	<i>P*</i>	-	-	
Skate park	-	C	C	C	

>>>>>

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

19.10.120 “Commercial and *Non-Commercial* ~~Recreational~~ 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.

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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
<i>Entertainment and Recreation</i>			
Recording and sound studios	P	P	
Shooting/ <i>Gun</i> range			* Subject to the provisions of

Use	CS	IC	Notes
	C*	C*	Section 19.12.120 “Commercial and Recreational <i>Non-Commercial</i> Shooting Range”.
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.

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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
<i>B. Residential Accessory Uses</i>		
These uses are permitted only as accessory or incidental to a primary use on the same property.		
Home occupations	P	Subject to permits and requirements specified in Chapter 19.36 <i>Home Occupations</i> .
<i>Non-Commercial Recreational</i> Weapon Usage	*	* <i>Subject to the provisions of Section 19.48.030 “Accessory Uses in Residential Districts”.</i>
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> .

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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, or specifically terminated by the City for cause.)

As noted within the February 15th 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, MARCH 15, 2011
6:00 P.M.

“DRAFT” MINUTES (EXCERPT)

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

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11.0 STUDY SESSION/COMMUNITY WORKSHOP

- 11.2 PC 09-76 – 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.

Director LaClaire presented a staff report to the Planning Commission regarding PC 09-76.

Jim Burdett, Twentynine Palms, said most of the people who live in his neighborhood do not want people discharging weapons in the neighborhood regardless if the land is vacant or not.

Steve Donnell, Twentynine Palms, spoke to the Planning Commission regarding item PC 09-76.

ACTION: On a motion made by Commissioner Whitten, seconded by Commissioner Benton and carried with a 5-0 voice vote continued the item to the April 19, 2011 Planning Commission

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- 12.0 ADJOURNMENT-** Chair Easter adjourned the meeting at 8:40 p.m.

Respectfully Submitted,

Jacqueline Palmer, Deputy City Clerk



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

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

To: Planning Commission – Study Session
From: Community Development Director
Date: April 12, 2011

For Commission Meeting Of: April 19, 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 continue with its review at a Study Session, open to the public, and 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.

ORDER OF PROCEDURE

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

Attachments:

Minute Excerpt from Commission meeting of March 15, 2011 (Draft, not yet approved by Commission)
Development Code Section 19.48.030 “Accessory Uses in Residential Districts”
Various definitions of “Building” and “Structure”

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 given 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 Commissioner 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.

Code Provision

Listed below is an excerpt from the Development Code Section in question (entire Section is 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:

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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).

ANALYSIS

Previously the Commission initiated a 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 (home) 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.

Within past Commission reports, staff noted its belief that its current reading of the Code to be a prudent and fair interpretation of the written Code. It has also been noted by both staff and the Commission that this same interpretation of the Code has not always been applied as a tour of the community easily reveals that many, many accessory buildings have been approved and built with Building Permits contrary to this interpretation.

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 (with a six {6} foot fence) and the top two (2) feet of squared off, flat roofed exposed metal need only be 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, the current language of the Code provides the basis for applying the Code.

The Commission is also aware of the Appeal filed by Mr. Horn relative to his request to install a metal covering for his recreational vehicle. The Commission’s interpretation of the Code here shall affect its decision upon the Appeal filed.

From the exchange between the Commissioners at the March 15th meeting, it appears the discussion focused upon the difference between a “building” and a “structure”, and what was meant by the term “architectural compatibility”. A further complication can be introduced with consideration of Section 19.48.030 “Accessory Uses in Residential Districts”, subsection “C” referencing “non-habitable accessory facilities” such as “storage buildings and similar uses”.

The following are definitions of building and structure from the Development Code (most applicable to the current discussion), the 2010 Edition of the Uniform Building Code and from the Health and Safety Code.

Definition from Development Code – Chapter 19.06 “Definitions”

“Building” - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind.

“Building, Primary” - A building in which the principal use is conducted.

“Structure” - A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Definition from Building Code -2010

“Building” – Any structure used or intended for supporting or sheltering any use or occupancy.

Exceptions:

1. Any mobilehome as defined in Health and Safety Code Section 18008.
2. Any manufactured home as defined in Health and Safety Code Section 18007.
3. Any commercial modular as defined in Health and Safety Code Section 18001.8 or any special purpose commercial modular as defined in section 18012.5.
4. Any recreational vehicle as defined in Health and Safety Code Section 18010.

5. Any multifamily manufactured home is defined in Health and Safety Code Section 18008.7.

For additional information see Health and Safety Code Section 18908.

Note: Building shall have the same meaning as defined in Health and Safety Code Section 17920 and 18908 for the applications specified in section 1.11.

“Structure” – That which is built or constructed.

Definition from Health and Safety Code

Section 17920

“Building” means a structure subject to this part.

Section 18908 Building; structure

(a) “Building” means any structure used for support or shelter of any use or occupancy. “Structure” means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner, except any mobilehome as defined in Section 18008, manufactured home, as defined in Section 18007, special purpose commercial coach, as defined in Section 18012.5, and recreational vehicle, as defined in Section 18010.

(b) “Building” includes a structure wherein things may be grown, made, produced, kept, handled, stored, or disposed of.

(c) All appendages, accessories, apparatus, appliances, and equipment installed as a part of building or structure shall be deemed to be a part thereof.

(d) “Building” does not include machinery, equipment, or appliances installed for manufacture or process purposes only, any construction installations which are not a part of a building, or any tunnel, mine shaft, highway, or bridge.

None of the above codes address architectural compatibility, but dictionary definitions of compatibility area as follows:

Definition of “Compatible” – Webster’s New Universal Unabridged Dictionary 1983.

“Capable of living together harmoniously or getting along well together; in agreement; congruous.”

Definition of “Compatible” – Merriam-Webster dictionary (2011) (Internet).

1. Capable of existing together in harmony.
2. Capable of cross-fertilizing freely or uniting vegetatively.
3. Capable of forming a harmonious mixture that neither separates nor is altered by chemical interaction.
4. Capable of being used in transfusions or grasping without immunological reaction (as agglutination or tissue rejection).

5. Designed to work with another device or system without modification; is specially: being a computer designed to operate in the same manner and used the same software has another computer.

Returning to the letter of the current Code, staff basis its interpretation of the requirements as follows:

- D. Accessory Structure Regulations. The following additional regulations shall apply to accessory structures as specified (*presumably under a and b of this section*):

All accessory buildings (*defined as "Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind"*) shall be required to be architecturally (*Defined as "appearance of the building"*) compatible (*Defined as "Capable of living together harmoniously or getting along well together; in agreement; congruous"*) with the main structure(s).

As such, a request for an accessory edifice that consists of a roof supported by columns or walls intended to shelter humans, equipment or materials must have a harmonious, congruous appearance to the main home. It would appear that this applies to all garages, carports, shops, storage sheds, RV, boat or materials covers, etc. And while it may be argued that Code Section 19.48.030 "C" (stating "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") could be applied to shops, storage sheds, RV, boat or materials covers, as they are not designed for human or animal "habitation", the preface of Code Section 19.48.030 "D" states "The following additional regulations shall apply to accessory structures", and then proceeds to require the architectural compatibility within the first paragraph of that subsection.

If the Commission elects to consider Code Section 19.48.030 "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") as providing a standard for structures such as garages, carports, shops, storage sheds, RV, boat or materials covers, that are clearly not designed to house humans or animals, the Commission must make this distinction clear for future application by staff. Allowing garages, carports, shops, storage sheds, RV, boat or materials covers, etc. (any edifice not designed for human or animal habitation) to be constructed of any materials and without regard to its relation to the main home on site (and presumably to other homes on surrounding properties) would be a departure from staff's current interpretation of the Code.

As an alternative to an unwavering, strict interpretation of the Code, or in interpreting the Code as not applicable to non-habitable structures, the Commission may wish to pursue a middle ground where issues of the size of property, nature of structure, its proposed location, existing structures on site and other property related features are considered. Likewise, the Commission may elect to pursue redefining compatibility so as not to mandate 100% compatibility, but some compatibility in between (such as establishing a list of features associated with the main structure on site {wall texture, roofing material, windows, decorative treatments such as pop-outs or columns, basic wall color, eaves and fascia, height, visibility, etc.} then requiring that at least "X" out of these identified features be matched).

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 latitude 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.

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, citywide. 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 staff's application of the Code. 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 forward a request to the City Council requesting its opinion on whether it is an appropriate use of City resources to pursue a Code Amendment at this time. 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, MARCH 15, 2011
6:00 P.M.

DRAFT MINUTES (EXCERPT)

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

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11.0 STUDY SESSION/COMMUNITY WORKSHOP

- 11.1 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 regarding PC 11-09.

Jim Burdett, Twentynine Palms, clarified you have to have a primary building on site in order to have an accessory building on site.

On a motion made by Commissioner Whitten, seconded by Vice Chair Alderson and carried with a 5-0 voice vote, the Planning Commission continued the item.

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- 12.0 ADJOURNMENT-** Chair Easter adjourned the meeting at 8:40 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.

Definition from Development Code – Chapter 19.06 “Definitions”

“Building” - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, or materials of any kind.

“Building, Primary” - A building in which the principal use is conducted.

“Structure” - A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Definition from Building Code -2010

“Building” – Any structure used or intended for supporting or sheltering any use or occupancy.

Exceptions:

1. Any mobilehome as defined in Health and Safety Code Section 18008.
2. Any manufactured home as defined in Health and Safety Code Section 18007.
3. Any commercial modular as defined in Health and Safety Code Section 18001.8 or any special purpose commercial modular as defined in section 18012.5.
4. Any recreational vehicle as defined in Health and Safety Code Section 18010.
5. Any multifamily manufactured home is defined in Health and Safety Code Section 18008.7.

For additional information see Health and Safety Code Section 18908.

Note: Building shall have the same meaning as defined in Health and Safety Code Section 17920 and 18908 for the applications specified in section 1.11.

“Structure” – That which is built or constructed.

>>>>

Definition from Health and Safety Code

Section 17920

“Building” means a structure subject to this part.

Section 18908 Building; structure

(a) **“Building”** means any structure used for support or shelter of any use or occupancy. **“Structure”** means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner, except any mobilehome as defined in Section 18008, manufactured home, as defined in Section 18007, special purpose commercial coach, as defined in Section 18012.5, and recreational vehicle, as defined in Section 18010.

(b) "Building" includes a structure wherein things may be grown, made, produced, kept, handled, stored, or disposed of.

(c) All appendages, accessories, apparatus, appliances, and equipment installed as a part of building or structure shall be deemed to be a part thereof.

(d) "Building" does not include machinery, equipment, or appliances installed for manufacture or process purposes only, any construction installations which are not a part of a building, or any tunnel, mine shaft, highway, or bridge.

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Definition of "Compatible" – Webster's New Universal Unabridged Dictionary 1983.

"Capable of living together harmoniously or getting along well together; in agreement; congruous."

Definition of "Compatible" – Merriam-Webster dictionary (2011) (Internet).

1. Capable of existing together in harmony.
2. Capable of cross-fertilizing freely or uniting vegetatively.
3. Capable of forming a harmonious mixture that neither separates nor is altered by chemical interaction.
4. Capable of being used in transfusions or grasping without immunological reaction (as agglutination or tissue rejection).
5. Designed to work with another device or system without modification; is specially: being a computer designed to operate in the same manner and used the same software has another computer.