



City of Twentynine Palms
6136 Adobe Road
Twentynine Palms, CA 92277
(760) 367-6799 FAX (760) 367-5400

MEMO

Date: May 3, 2011
To: Planning Commission
From: Charles K. LaClaire, Community Development Director
Re: Commission Discussion of the establishment of Task Forces

At its regularly scheduled meeting of April 19, 2011, the Planning Commission requested that an item be placed upon the next agenda to discuss the creation of a “Task Force”, or more than one, to review and move forward on those items that are on the Commission’s Study Session/Code Amendment priority list. A Task Force is a subset of a larger official group generally intended to address an ongoing issue for an extended period of time (potentially years). A more commonly used subset of a Council or Commission is an “Ad hoc” committee used to study one issue for a short duration, reporting back to the full Council or Commission in relatively short order. Ad hoc committees are generally short term in nature (three {3} to twelve {12} months), made up of members from the official group and numbering less than a majority of the official group (here two {2} Commissioners). (The choice of title of the subset committee is entirely up to the Commission; Task Force or Ad hoc committee.)

The Commission may elect to establish Ad hoc committees of two (2) members to review items currently listed upon the Commission’s Study Session/Code Amendment priority list. More than one Ad hoc committee can be formed, each given a different issue from the priority list to work on. The Ad hoc committee can study the issue and then report back to the full Commission on the outcome of their study. This report may suggest additional study, alternatives to the issue or the suggestion to initiate a request to the Council to pursue a Code Amendment.

It is important to note that for the City of Twentynine Palms Ad hoc committees must not have more than two (2) Commissioners serving at any one time and that these two (2) members may not discuss the issue (the focus of their Ad hoc committee) with another Commissioner until that issue has been agendized and during the Study Session or Public Hearing on that topic.

If the Commission elects to establish subsets of the full Commission to study items upon the Commission’s Study Session/Code Amendment priority list, whether identified as a Task Force or Ad hoc committee, staff would suggest that the Commission consider utilizing the following five (5) step process as a framework for these efforts.

1. The Commission identifies an item from the list to be reviewed by the individual Ad hoc committee or Task Force.

2. The Commission sets the larger parameters of the subset group, such as a discussion of whether or not this use should be allowed or prohibited, should strict or loose standards be created, should it be allowed by right-of-zone or under discretionary review, allowed in specific areas or citywide, etc. If it is not a use issue, but a development standard, the same fundamental questions of strict or loose standards, should the standards be applied if the associated use is permitted by right-of-zone or only when considered under discretionary review, or differ in intensity in specific areas or citywide, etc., would apply.
3. The Task Force then works to flesh out these parameters with conceptual details of what it means to be more or less strict, advantages and problems if allowed by right-of-zone (including unintended consequences), allowed but only if specified standards apply, allowed under discretionary review where specific conditions can be applied to address the unique circumstances of the individual property where the use shall take place, what issues should be addressed under that discretionary review (setbacks, separation distances, minimum sizes, maximum sizes, distance to sensitive uses, associated uses, overconcentration of uses, etc.) and other issues unique to that particular use.
4. The Task Force then brings this compellation of information back to the full Commission for confirmation that the fleshed-out direction is correct, and it is then turned over to staff to create the proper narrative to address all of the points made and in a format that is consistent with the existing Development Code.
5. With the creation of the narrative, and dependent upon the nature of the issue under review, the Commission may wish to set a Study Session to review the draft material in a more casual setting allowing for public input, or set the item for a Public Hearing.

If the Commission elects not to form one or more Task Force or Ad hoc committee subsets, then the Commission's suggestion made at the April 19th regularly scheduled meeting that the Council be approached to authorize one (1) or two (2) additional Commission meetings per month may need to be discussed and if warranted moved forward. It is assumed that these additional meetings would be devoted to the issues identified upon the Commission's Study Session/Code Amendment priority list. Additional Commission meetings will involve staff time to prepare agendas, post agendas, prepare staff reports, attend meetings, present staff reports at the meetings, prepare minutes, follow-up reports and clean-up following the meetings. These additional tasked would be added to the staff's current workload.

Future Study Sessions/Code Amendments (As Set by PC 2/15/2011)

Highest Priority

Message Parlor Standards – SB 731

Second Highest Priority

Barber/Tattoo Facilities (Individual Licensed Operators)
Lighting/Night Sky Ordinance
Parking Lot Standards/Shared Parking Agreement Standards
Southwest Design Theme Update

Third Highest Priority

DCA to require Building Permits for block walls
Residential Fencing Standards
Night Club Standards

Everything Else

New Animal Standards
Smoking/Hookah Lounges
Caretaker Unit/Quarter Standards
Second Dwelling Unit Standards
Bed & Breakfast Standards
29 Palms RV Park Standards
Approval Authority for Tentative Tract Maps (19.94)
Taxi Cab Standards/Regulations
DCA to address certain Business Over-concentrations within City



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MEMO

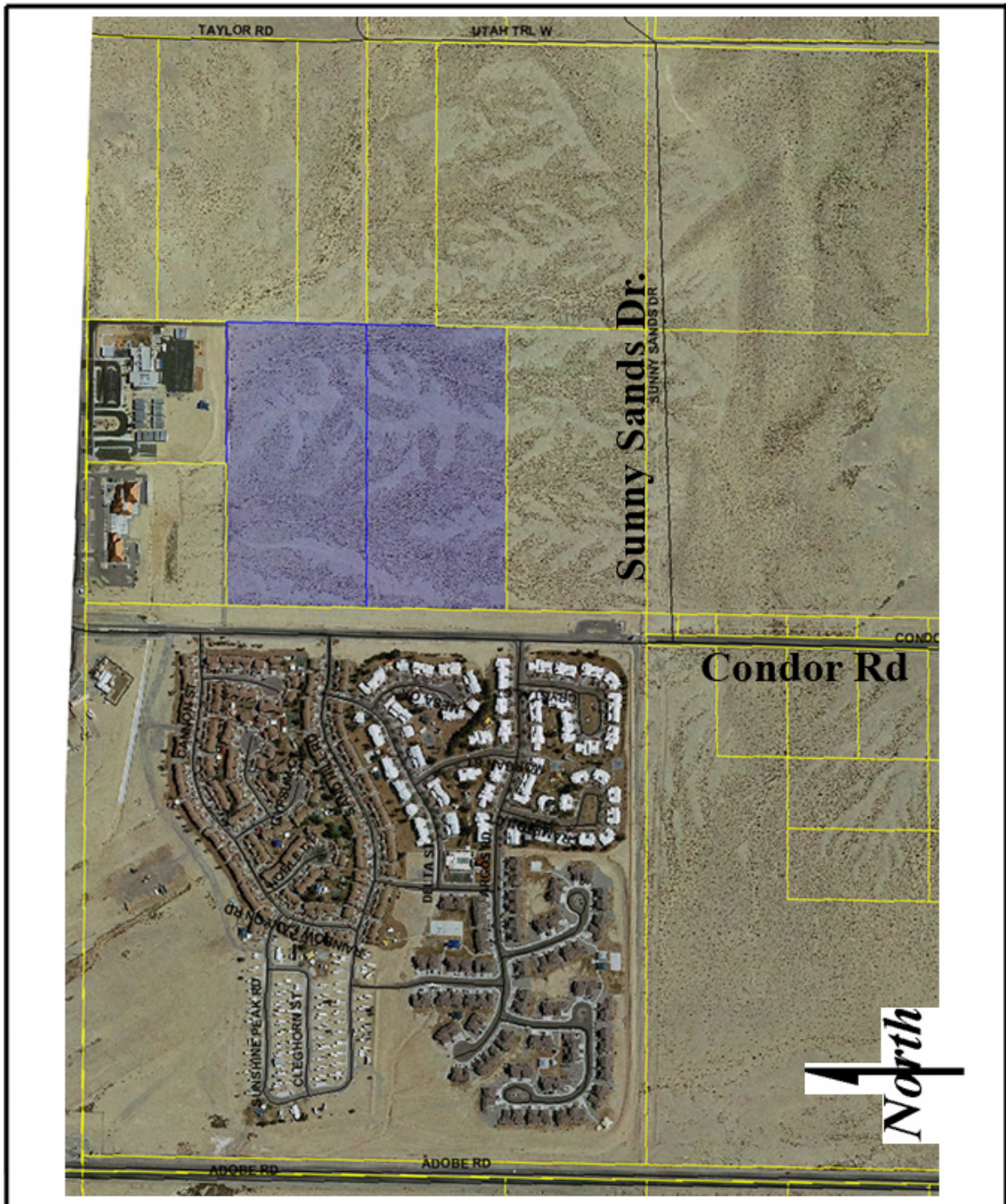
Date: May 3, 2011
To: Planning Commission
From: Charles K. LaClaire, Community Development Director
Re: PC 09-46 Condor Project – Introductory Presentation and Question & Answer Session.

At its meeting of April 5, 2011, staff informed the Commission that Condor Project representative Eric Goldsmith had requested the opportunity to present an introduction to the proposed 240 unit project to be located along the east side of Condor Road, north of Sunny Sands drive (north of Valle Vista Road). Mr. Goldsmith shall be available following the presentation to address any questions that the Commission may have.

As background, in mid-2010, the City began processing a revised, resubmitted request to develop 240 apartment units upon two adjoining properties (APNs 0622-291-14 and 0622-291-15) totaling forty (40) acres of land. One of these properties (20 acres) is currently zoned Multi-Family Residential 5m, with the other possessing a split zoning of General Commercial (CG) and Rural Living 1 DU/2.5 acres. A General Plan Amendment/Zone Change application has been submitted by the applicant. Access to the site is proposed through a “driveway” from Condor Road. The site plan indicates a total of forty-five (45) buildings comprised of two-hundred forty (240) dwelling units, twenty-four (24) of which are proposed as four- bedroom units, one-hundred fifty (150) three-bedroom units and sixty-six (66) two bedroom units.

Attached are an Aerial Map of the site and site layout (provided by the applicant).

As was noted by the Commission at the April 5th meeting where staff indicated that the project would be introduced at the May 3rd regular meeting, no official comments on the project shall be made by the Commission at that meeting, and that no comments made, questions asked or answers to any applicant question made by the Commission or staff shall be taking as approving or denying the project, nor officially directing the applicant to make any changes to the submittal. Any comments made are from individual Commissioners not representative of formal action of the Commission as a whole. Official action regarding the project shall only occur when the project is presented to the Commission at an advertised Public Hearing. Any review or comment on the project at the May 3rd Commission meeting shall not relieve the applicant of conformance to all Code provisions and requirements.



Aerial of Site
Assessor Parcel Numbers
0622-291-14 & 15



PC 09-46
May 3, 2011



**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 28, 2011

For Commission Meeting Of: May 3, 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 continued 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:
(Under separate cover)**

Shotgun Allowance Areas
CA Gun Law 2006 and 2007
Surface Danger Zone Pocket Guide
9-2005 Co. Rec. Shooting Areas

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, March 15 and April 19, 2011, the Planning Commission began and continued its review of 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). Commissioner Whitten has provided staff with a copy of the California Gun Laws, copies of which are attached to this report (under separate cover).

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, verses 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). Both the Study Session and Public Hearing were addressed at the regular meeting of April 19, 2011, with the Commission continuing the Code Amendment Public Hearing until the meeting of May 17, 2011 with the Study Session continued to the regular meeting of May 3, 2011. Both were continued to allow the full Commission to be present during these important discussions, as one Commission member was absent from the April 19th meeting.

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.

At the regular meeting of April 19th, the Commission heard from three (3) individuals, one questioning the proposed language, one expressing his concern that he does not understand how this activity is allowed within residential areas and the other noting the purpose of shooting ranges and owner responsibility and liability. Also during the meeting Commissioner Whitten provided the City with information referred to as the "Surface Danger Zone" and requested that this information be included within the Code Amendment material for future consideration. It was also requested that clarification be provided as to whether or not it was lawful to discharge a weapon in a manner that would allow the projectile to cross from one property to another (even with both property owner's permission). Staff has requested an opinion on this from the City Attorney. Any opinion rendered will be provided to the Commission when it becomes available.

Surface Danger Zone - The ground and airspace designated within the training complex (to include associated safety areas) for vertical and lateral containment of projectiles, fragments, debris, and components resulting from the firing, launching, or detonation of weapon systems to include explosives and demolitions.

Following these comments, the Commission discussed the issues raised and continued the Study Session to the regular meeting of May 3, 2011.

Analysis:

As with the issue of accessory buildings, the Commission may wish to alter its approach to the shooting range issue and examine a few, more basic, questions to refocus its review of the proposed land use.

While acknowledging that the Council initiated this Code Amendment, how significant of an issue is this within the community to warrant the creation of potentially extensive new regulations?

Other than allowed under current City, County, State and Federal law, does the City want to create new regulations to address:

- Private shooting on private land within the City at all;
- Commercial (defined as receiving any compensation) shooting on private land;
- Is there a difference between someone shooting on their land and a shooting range;
- Is individual shooting allowed by right, but a shooting range controlled;
- Indoor regulations verse outdoor regulations;
- Is the basic question concerns for noise, nuisance or safety;

Different allowances within different zones (residential vs. commercial vs. industrial);
Should detailed (separation, noticing, hour limitations, access, parking, sign, site design criteria, etc. requirements) or general rules be created;
Don't County, State and Federal regulations already adequately address the sales of firearms and ammunition;
Is City discretionary review appropriate (in all cases, some or none);
Should the City attempt to create regulations addressing safety, or expect operator responsibility;
Other than penalties associated with County, State and federal law, what level of penalty is appropriate for violation of City Code (citation or misdemeanor)?

With consideration of the guidance given by the Commission in the past, and assuming the Commission retains the material provided at previous meetings, 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. As before, 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.

Surface Danger Zone. *The ground and airspace designated within the training complex (to include associated safety areas) for vertical and lateral containment of projectiles, fragments, debris, and components resulting from the firing, launching, or detonation of weapon systems to include explosives and demolitions.*

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

Use	RL-1	RL-2.5	RL-5	Notes
				swim clubs.

>>>>>

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

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

>>>>>

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

Use	RM	Notes
<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 Weapon Usage	<i>P*</i>	* Subject to the provisions of Section 19.48.030 “Accessory Uses in Residential Districts”.
Recreational uses accessory to Multi-family Residential.	P	Includes recreational centers, tot lots and playgrounds, lighted and unlighted courts, and swimming pools and related facilities.

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

>>>>>

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

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

- A. The property shall be a minimum of two and one half (2.5) acres in size (Commission please note a typical 330' by 330', 2.5 acre lot will not allow a 450' separation between where a weapon may be discharged and a property line {which may have a habitable structure on the other side}).
- B. The discharge of weapons may only occur between the hours of 7:00 a.m. and 10:00 p.m. consistent with the provisions of Code Section 19.74.080 "Prohibited Noise and Vibration".
- C. Access to the property for emergency services shall be maintained at all times when the ~~recreational~~ **non-commercial** and/or commercial activity is occurring. In addition, some form of electronic communication equipment capable of contacting appropriate authorities during an emergency shall be available and operational at all time when the ~~recreational~~ non-commercial and/or commercial activity is occurring.
- D. All property owners within five hundred (500) feet of the edges of the property proposed for such **indoor use and one thousand (1,000) feet of the edges of the property proposed for such indoor use** shall be provided with notification of the Public Hearing for the Conditional Use Permit.

- E. At the Public Hearing, the Commission shall consider any and all information regarding issues or concerns that may need to be addressed by the application of appropriate Conditions of Approval prior to the approval of any Conditional Use Permit.
- F. The maximum number of individuals that may participate in or observe the ~~recreational~~ non-commercial and/or commercial activity occurring shall be established by the Commission with its review of the Conditional Use Permit.
- G. Parking shall be based upon the maximum number of individuals that may participate in or observe the ~~recreational~~ non-commercial and/or commercial activity occurring on site as established by the Commission with its review of the Conditional Use Permit, but in no case shall less than one parking space per three (3) participants be provided. Parking space size, location and parking surface requirements shall be in conformance with Chapter 19.82 "Off-Street Parking and Loading Requirements" of the Development Code.
- H. All signage on site shall conform to the requirements of Chapter 19.84 "Signs" of the Development Code.
- I. Weapons may not be discharged in a manner or direction that would allow projectiles, fragments thereof or ricochets thereof to cross over property lines (unless both properties are owned by the same individual{s}), access easements between properties, public rights-of-way or into or onto any **County, State or** Federal lands.
- J. The discharge of weapons must conform to State law to which no weapon(s) may be discharged within 150 yards from a residential structure (whether occupied or not), except with the property owner's permission (which removes this restriction).
- K. The discharge of a weapon(s) over or from a public or private roadway is prohibited.
- L. A Conditional Use Permit may only be approved where it can be demonstrated that the orientation of the discharge of any weapon shall be in such a manner so as to reasonably ensure the safety of those on-site or to those on surrounding properties. Such discharge shall be oriented towards a "berm" **and/or** "backstop" built, placed and maintained in a manner to prevent projectiles from exiting the approved property(ies).
- M. No Conditional Use Permit shall be approved for a property located adjacent to an existing residential neighborhood with lots of less than one acre in size, or within one thousand (1,000) feet of an existing public park, campground, playground or public/private school, or within five hundred (500) feet of any hospital, church, residential care facility, senior housing facility, animal care facility, bar, casino, the Joshua Tree National Park or any **County, State or** Federal lands.
- N. Copies of standardized "Range Safety Guide" rules and procedures must be available on site at all time and shall be followed at all times.
- O. An individual professionally associated with the commercial shooting range shall be on site at all times when customers/patrons are on site and actively engaged in the activity of discharging weapons.
- P. Commercial, retail sales, trade, exchange or transfer of ownership may occur upon the site as approved by the Planning Commission in its review of the required Conditional Use Permit. **Any such retail sales, trade, exchange or transfer of weapons activity may include the sale of ammunition, if such sale is approved by the Planning Commission in its review and approval of the required Conditional Use Permit.**
- Q. A private, non-commercial indoor shooting range consisting of an enclosed structure where the discharge of weapons is taking place from which projectiles cannot escape, may be approved with a reduction in the above standards consisting of a minimum lot size of one (1) acre, operating hours of between 6:00 a.m. and midnight, the orientation of the weapon(s) discharge need not be towards a "berm" or "backstop", and all separation requirements may be reduced to one hundred (100) feet. In addition to the

above, any indoor shooting range must conform to all State air quality standards, **and must conform to all State and Federal laws and regulations pertaining to weapons.**

- R. Any of the above **City** standards may be waived or reduced by the Planning Commission under review of a Conditional Use Permit where it can be demonstrated with appropriate documentation for the record that such standards are not needed for the safety of those person(s) on-site or upon the surrounding properties. **County, State and Federal regulation may not be modified or waived by the Planning Commission.**
- S. Although a shooting range operated by, for or as a “private club”, shall be subject to the above standards and requirements, an Administrative Weapons Discharge Permit may be approved in lieu of a Conditional Use Permit.

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

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

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

>>>>>>

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

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

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

>>>>>

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

Use	OSR	Notes
<u>B. Residential Accessory Uses</u>		
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> .
Non-Commercial Recreational 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> .

>>>>>

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~~ **five hundred (500)** feet of the edges of the property proposed for such ~~indoor~~ **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 ~~recreational~~ **non-commercial** 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 previous Study Session and Public Hearing reports, 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 to be considered at a Public Hearing, 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 an advertised 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.



**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 26, 2011

For Commission Meeting Of: May 3, 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.

Attachments:

Minute Excerpt from Commission meeting of April 19, 2011 (Draft, not yet approved by Commission)
Development Code Section 19.48.030 “Accessory Uses in Residential Districts”

ORDER OF PROCEDURE

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

PROJECT DESCRIPTION

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

BACKGROUND

Currently the Commission is in the process of reviewing the Development Code with regard to architectural compatibility between accessory buildings and primary buildings located upon the same property. The Commission began its review of this issue at its regularly scheduled meeting of February 15, 2011, continuing that discussion to April 19, 2011 and then to May 3, 2011. Initially the 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. During this time period, the Commission was also considering an Appeal request for the installation of an accessory building (a metal RV cover/carport) directly relating to the Code provisions the Commission was reviewing.

At its regularly scheduled meeting of April 19, 2011, the Commission made a final determination of the Appeal request, providing an interpretation of the Code relative to “non-habitable” accessory structures. Thus, where requests are made which propose accessory structures which are not, as defined by the Uniform Building Codes, “habitable structures”, such requests are not subject to be “architecturally compatible” with the main structure/home on site. Therefore any structure, metal or otherwise, such as unfinished garages, carports, sheds or other building/structures (any of which that are classified as non-habitable) shall not be reviewed for appearance, only conformity to setbacks, height and lot coverage requirements.

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:

>>>>>

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

At its regularly scheduled meeting of April 19, 2011, the Commission considered an Appeal of staff's determination of the need for architectural compatibility between a main structure (home) upon a property and a proposed recreational vehicle (RV) cover/carport (considered an accessory structure). Following two (2) Public Hearings, the majority of the Commission approved a motion to determine that the RV cover/carport, as a “non-habitable” structure, was not subject to the provisions of Development Code Section 19.48.030 “Accessory Uses in Residential Districts”, Subsection D” “Accessory Structure Regulations”, paragraph 1 with regard to architectural compatibility. As such this RV cover/carport has been authorized by the Commission to be approved as presented without consideration of its appearance in comparison to the main structure, a home, on site. As was noted in the Public Hearing report and by staff during the meeting, the decision of the Commission with regard to the Appeal shall be carried forth to all future similar requests until such time as a new interpretation of the Code is provided by the Commission or Council or a Code Amendment has been processed and is put into effect. To be clear, all structures that are considered (it is assumed as determined by the Uniform Building Code) to be “non-habitable” shall be permitted regardless of their appearance (but in conformance to lot coverage, structural height and setbacks).

With the April 19th Appeal decision, the Commission may wish to take a simple, direct approach in its current review of the accessory structure regulations; a back to the basics approach. First, with the April 19th interpretation, is the Commission now satisfied with how the Code should be applied to accessory buildings/structures and, therefore, there is no further need for the Study Session? Alternatively, the Commission may wish to discuss what buildings/structures should be considered as accessory and what rules should apply to such buildings/structures. This would entail the Commission considering the intensity of rules (many and strict, or few and flexible) to be applied to accessory structures, and what is an accessory building/structure subject to these rules. In this discussion, the Commission may wish to consider the possible impacts to adjoining properties from allowed accessory structures, and possibly including

consideration for more flexibility for larger lots. At its basic level, the question is what type of accessory building/structure does the Commission find acceptable within the community?

If the Commission would like to pursue this discussion further, the following are basic questions that may help frame the discussion and provide guidance to staff as to how any changes to the current regulations should be created. Obviously, the Commission is not restricted to discussing only, or even any, of the following; these questions are provided merely as a starting point.

1. What is an accessory building/structure? (Use current Code definition, habitable verses non-habitable, or create something new?)
2. What isn't an accessory building/structure? (Possibly anything under the size that requires a Building Permit.)
3. Should buildings/structures not considered an accessory building/structure be subject to any rules/regulations at all?
4. Should any rule apply to where an accessory building/structure may be placed upon a property (such as not within a required front or street side yard setback, within any setback, no closer than "X" feet to a public street or to the "rear" of the front edge of the home)?
5. Should a rule apply to where an accessory building/structure may be placed relative to a structure upon a neighboring property (such as not closer than "X" feet to a residential structure upon a neighboring property)?
6. Should a rule apply to how tall an accessory building/structure may be by itself or relative to the main building/structure on site?
7. Should a rule apply to how many accessory buildings/structures may be allowed on a site within the standards for lot coverage?
8. Should a rule be established regarding the maximum size of one or all accessory buildings/structures on a site? (Such as "X" square feet, no matter what else is located upon the property.)
9. If applicable, should this maximum size be related to the main structure on site? (Such as the accessory building/structure shall not have a larger square footage {or footprint} than the main structure on site, or all accessory buildings/structures added together {cumulative total} shall not have a larger square footage {or footprint} than the main structure on site.)
10. Should a separation distance be applicable?
11. Do these rules change in different zones (rural verses single-family residential) or where the accessory structure is upon larger lots (1, 2.5 or 5 acres)?
12. Can an accessory building/structure have any architectural appearance as requested by the proponent without review or consideration by the City? (This may include

construction using materials such as metal, wood, piping, clothe, brick, tires, bottles, concrete corings, etc. or any combinations thereof.)

13. Would the same appearance rules apply if the accessory building/structure is not visible, or partially screened, from view of the public right-of-way, or neighboring properties?
14. Where does the allowance for cargo containers fall within this discussion of accessory buildings/structures?
15. Should any nature of above ground structure/building be considered differently than flatwork (for example a tennis court) or a below ground structure (such as a swimming pool)?
16. If the Commission wishes to retain architectural compatibility requirements, 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 compromise 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).

As has been previously noted, 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.

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 bases 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).

Finally, whether the Commission is now satisfied with the interpretation of the Code or whether a Code Amendment shall be processed to establish new standards and regulations, staff is obligated to apply these rules and regulations as adopted with little leeway for interpretation to assure consistency and fairness in the application of the regulations.

Findings

Under the provisions of the Development Code, no “Findings” are required to be made for the Commission to undertake a review of the Development 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. 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 the current standards and regulations within the existing Development Code, 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 Study Session is statutorily exempt from further environmental review.

Approval Process

If the Commission would like to amend the Code to address Accessory Structures with different standards, the Commission may forward a request to the City Council asking 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.

TWENTYNINE PALMS CITY COUNCIL/REDEVELOPMENT AGENCY
6136 Adobe Road
Twentynine Palms, CA 92277
www.ci.twentynine-palms.ca.us
TUESDAY, APRIL 19, 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 Whitten led the Pledge of Allegiance.
ROLL CALL- The following Commissioners were present: Alderson, Benton, Whitten and Easter. Commissioner Mendoza had an excused absence.

>>>>>>

7.0 PUBLIC HEARINGS

- 7.2 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.

Director LaClaire presented a staff report to the Planning Commission.

Chair Easter opened the Public Hearing.

C.J. Horn, Twentynine Palms, applicant, spoke in favor of the appeal and said he would like to get on with his project.

Walt Kaufman, Twentynine Palms, spoke in favor of the item.

Chair Easter closed the Public Hearing.

ACTION: On a motion made by Commissioner Whitten, seconded by Commissioner Benton and carried with a 3-1-1 (Alderson no, Mendoza absent) roll call vote, the Planning Commission approved the appeal based upon the determination that the R.V. carport, being a metal structure that is considered a “non-habitable” structure, is not subject to the requirements of Section 19.48.030 “D” 1 of the Development Code.

>>>>>>

11.0 STUDY SESSION/COMMUNITY WORKSHOP

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

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.

Director LaClaire presented a staff report to the Planning Commission.

Consensus of the Planning Commission was to continue the item to the May 3, 2011 Planning Commission meeting.

12.0 ADJOURNMENT- Chair Easter adjourned the meeting at 7:15 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.