



**CITY OF PACIFIC GROVE**  
**300 Forest Avenue, Pacific Grove, California 93950**  
**AGENDA REPORT**

**TO:** Honorable Mayor and Members of City Council.

**FROM:** Laurel O'Halloran, Associate Planner

**MEETING DATE:** May 4, 2016

**SUBJECT:** Consideration of an appeal of the Planning Commission decision to uphold the Zoning Administrator's decision to deny Undocumented Unit Permit No. 15-671 for a property located at 210 17 Mile Drive.

**APPLICANT:** Anthony Davi on behalf of Jacqueline Trees

**CEQA STATUS:** Exempt Section 15301 (Class 1)

**RECOMMENDATION**

Review the application to deny the appeal, and adopt proposed findings that uphold the Planning Commission's decision and deny Undocumented Unit Permit No. 15-671.

**BACKGROUND**

The subject site is located at 210 17 Mile Drive in the R-4 zone (Site) and has a designation of High Density 29.0 DU/AC on the adopted City of Pacific Grove(City) General Plan Land Use Map. Multi-family units are permitted with a Use Permit per PGMC section 23.28.020(c).

The Site is approximately 8,400 square feet and is developed with a 1,230 sf single family residence, a 1,830 sf duplex (permitted in 1964 from a garage conversion), and a 324 sf workshop converted to an unpermitted 4th dwelling unit .

The current owner (applicant or appellant) purchased the property in 2009 and signed the City's Residential Zoning Records Report (RZRR) acknowledging the conditions of the property including that there was a single family dwelling and a two-unit (duplex) apartment.

On October 27, 2015, the applicant applied for a permit to legalize the converted workshop as an undocumented 4<sup>th</sup> unit. On January 14, 2016, the Zoning Administrator denied the permit based on (1) there is no evidence on file with the City for conversion of the unit from a workshop to the 4<sup>th</sup> dwelling unit and (2) the fact the applicant signed the RZRR acknowledging the sale and transfer occurred in 2009, and the existing Site was a single family dwelling with a duplex apartment and a workshop. The RZRR did not recognize a fourth dwelling unit.

On January 14, 2016, Counsel for applicants, Anthony Davi, filed an appeal of the Zoning Administrator's denial. He contended the City has no legal basis for denial.

At the March 17, 2016 Planning Commission hearing, the members voted to uphold the Zoning Administrator's decision. That decision was based on the fact that the current owner signed the RZRR acknowledging the existing Site was a single family dwelling, a duplex apartment and a workshop. The RZRR did not recognize a fourth dwelling unit. A Planning Commissioner also produced a 2009 MLS report which clearly shows how the Site was marketed with a single-family home, a duplex apartment, and a workshop. There is no mention of a fourth dwelling unit.

The project Site has been an ongoing code compliance issue because of the undocumented 4<sup>th</sup> dwelling unit. A tenant living in the undocumented fourth unit complained about the conditions of the unit, triggering further code compliance issues.

### **EXPLANATION OF APPLICABLE ORDINANCE**

In 2013, Ordinance 13-005 amended the PGMC to allow property owners to obtain a permit for undocumented units as long as certain conditions were met. The Council was concerned about the plight of unsuspecting property owners who purchased a property only to subsequently discover the existence of an undocumented unit through no fault of their own. It was the intent of the Ordinance that eligible property owners must have purchased the property prior to 1986.

PGMC, as amended by Ordinance 13-005, provides,

When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented unit status of the unit.

In the absence of a City permit, the property owner must provide sufficient documentation the unit existed **and** was used as a dwelling unit prior to January 1, 1987 (when the Real Estate Disclosure Law went into effect).

In this case, the applicant purchased the property in 2009, and signed the RZRR acknowledging the existing conditions of the property, which did not include an unpermitted dwelling unit.

### **APPEAL PROCESS**

Following the March 17, 2016, Planning Commission denial of Use Permit 15-671, Mr. Davi submitted an appeal (Attachment 1)

PGMC section 23.74.030 (c) provides this Appeal "shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not generally known at the time of the decision that is being appealed."

PGMC section 23.74.050 (d) directs the City Council to conduct a de novo public hearing on the Appeal in compliance with Chapter 23.86 PGMC (Public Meeting and Hearing Procedures). At the hearing, the Council may consider any issue involving the matter that is the subject of the appeal, in addition to specific grounds identified in the appeal.

PGMC section 23.74.050 (d) (1) and (2) provide the Council may affirm, affirm in part, or reverse the action, decision, or determination that is the subject of the appeal, based upon findings of fact about the particular case. The findings shall identify reasons for the action on the appeal, and verify the compliance or non-compliance of the subject of the appeal with these regulations. Prior to approving a permit or other action, the applicable findings in Chapter 23.70 PGMC (Community Development Permit Review Authorities and Procedures) shall be made. The Council in this matter may also adopt additional conditions of approval that may address other issues or concerns than the subject of the appeal or call-up.

### **RESPONSE TO APPEAL**

The Pacific Grove Planning Commission reviewed the applicant's appeal and could not find sufficient evidence to approve the undocumented 4<sup>th</sup> dwelling unit. The applicant signed the RZRR acknowledging the conditions on the property in 2009. Staff contends the appellant does not fall within the class of persons Ordinance 13-005 was designed to protect, because although the unit may have existed before 1987, as required by the Ordinance, at the time of purchase the applicant signed the RZRR acknowledging the 4<sup>th</sup> dwelling unit did not exist.

Furthermore, although the "Second Unit" Chapter (23.80) requirements are not required to be met as part of the Undocumented Unit process, the applicant is still required to meet the requirements of Chapter 23.70.030(e) (Findings Required for Approval) of the PGMC which requires all zoning requirements, including parking to be met. Appellant cannot meet those requirements

### **FINDINGS**

Staff proposes that the following findings be adopted as part of Council's action on the appeal.

- (A) The proposed application does not provide sufficient evidence that the fourth dwelling unit pre-dated the purchase in 2009.
- (B) The proposed application does not provide sufficient evidence that the fourth dwelling unit existed and was used prior to January 1, 1987.
- (C) The proposed application cannot provide any evidence that any City permits exist or were conveyed to convert the workshop into a dwelling unit with kitchen and bathroom at any time.
- (D) The proposed use will not be in compliance with all laws, regulations and rules pertaining to setback, parking and trash facilities and any other provisions of this code per section 23.70.040 (e).
- (E) The proposed use does not have a building permit and has existing building code violations.
- (F) The Monterey Peninsula Water Management District (MPWMD) cannot verify the water credits for the kitchen and bathroom in the undocumented 4<sup>th</sup> unit.
- (G) The subject property cannot meet the required seven off street parking spaces for the R-4 zone with 4 units per section 23.64.190(a) (b). The subject property provides for only one uncovered off-street parking space.
- (H) The subject property will also not meet the required trash enclosure requirements for the R-4 zone with 4 units per section 23.26.080.
- (I) The subject property exceeds the 60% site coverage requirement for the R-4 zone with site coverage of 78%.
- (J) The proposed use is not consistent with the General Plan;

- (K) The establishment, maintenance, or operation of the use will be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
- (L) The use, as described would be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city; and

### **CONCLUSION**

The undocumented 4<sup>th</sup> dwelling unit, (converted workshop), on the Site does not and cannot meet applicable City requirements as outlined above.

The owner purchased the property in 2009 and signed the RZRR acknowledging there was a single family dwelling with a two-unit apartment. Ordinance 13-005 findings No. 6 requires the property owner to have purchased the property before 1986. This second appeal does not introduce any new or different evidence that would provide a basis for approving the workshop's conversion into a 4<sup>th</sup> dwelling unit. Therefore, staff recommends that the City Council uphold the Zoning Administrator's decision and the Planning Commission decision to deny the application for Undocumented Unit Permit No. 15-671.

### **ENVIRONMENTAL REVIEW**

The project qualifies for a Class 1 exemption from CEQA requirements, pursuant to Section 15301 (Class 1) – Existing Facilities.

### **ATTACHMENTS**

1. Appeal Applications
2. Application materials
3. Ordinance No. 13-005 and process handout
4. Residential Zoning Records Report(RZZR)
5. Undocumented Unit Permit signed Denial
6. Appellant's Comments

RESPECTFULLY SUBMITTED:

*Laurel O'Halloran*

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Laurel O'Halloran, Associate Planner

REVIEWED BY:

*Ben Harvey*

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Ben Harvey,  
City Manager





## CITY OF PACIFIC GROVE

### Community Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

T :: 831.648.3190 • F :: 831.648.3184 • www.ci.pg.ca.us/cdd

### Appeal Form

Agenda No. 11C Attachment 1

Appeal #: 15-671  
Date: 1-14-16  
Received By: Debbie Gurnales  
Total Fee: \$601.00

### Project Information

Project Address: 210 17 mile Dr. APN: 006-351-015  
☐ On HRI / ☐ Not on HRI  
Application & No.: PUV City Code §23.64.360 E4 #15-671  
Applicant Name: Jacqueline Trees (owner) Anthony Davis Phone #: 831-373-3192  
Mailing Address: 215 W. Franklin St. #205  
Email Address: anthony@davidlaw.com  
Owner Name: Jacqueline Trees Phone #: 310-663-6570  
Mailing Address: 1112 Montana Ave. suite #238, Santa Monica CA  
Email Address: 90403

### Action<sup>1</sup>

☐ ARB: Architectural Review Board  
☐ CDD: Planning Staff  
☐ HRC: Historic Resources Committee

☐ PC: Planning Commission  
☐ NRC: Natural Resources Committee  
☐ SPRC: Site Plan Review Committee  
☒ ZA: Zoning Administrator

Date of Action: January 14, 2016

Action Taken: ZA denial of Undocumented Unit permit 15-671

### Appeal Information

Appellant Name: Jacqueline Trees / Anthony Davis Phone #: 831-373-3192  
Mailing Address: 215 W. Franklin St. #205, Monterey, CA 93940  
Email Address: anthony@davidlaw.com  
Appeal Deadline: 5:00 p.m. on 01/24/16  
Grounds for Appeal: Denial of permit application by Zoning Administrator.

*If necessary, use additional pages.*

### Fees

Discretionary Fees <sup>2</sup>		\$	
Appeal Fee = 25% of discretionary fees	<u>848.50 x .25 = 212.13</u>	\$	<u>212.00</u>
Cost of publication of legal notice <sup>3</sup>		\$	<u>300.00</u>
Photocopies _____ copies @ 10¢ each		\$	<u>2.00</u>
Postage <sup>4</sup> _____ stamps @ 45¢ each		\$	<u>36.00</u>
Other <u>GEN PLAN</u>		\$	<u>53.00</u>
Total Appeal Fee	<u>1-14-16</u>	\$	<u>601.00</u>

Appellant Signature

Date 1-14-16

<sup>1</sup> See Table 23.70.012-1 in the Pacific Grove Zoning Code, which identifies roles of review authorities as they relate to appeals.

<sup>2</sup> Whatever fee was collected by the city for the application for use permit, architectural approval, variance, etc., or combination of more than one fee if more than one decision is being appealed.

<sup>3</sup> Currently averaging \$250-300.

<sup>4</sup> Typically the number of address labels for parcels (or portions thereof) found within a 300 ft radius of the subject parcel (350 ft radius for homes in the Asilomar Dunes area) is approximately 120. Mailing is sent to owners and occupants (including most individual apartments) of properties.

**\$ PAID**  
509.03  
3-22-16



## CITY OF PACIFIC GROVE

Community Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

T :: 831.648.3190 • F :: 831.648.3184 • www.ci.pg.ca.us/cdd

Appeal Form

Appeal #: UUP 15-671

Date: 3/22/16

Received By: [Signature]

Total Fee: 509.03

2016 MAR 22 P 2:56

### Project Information

Project Address: 210 17 Mile Dr. APN: 006 351 015  
☐ On HRI ☐ Not on HRI  
Application & No.: UUP City Code § 23.64.360 #15 671  
Applicant Name: Jacqueline Trees (owner) Anthony Davi, ESQ. Phone #: 831 373 3192  
Mailing Address: 215 West Franklin St. #205, Monterey, CA 93940  
Email Address: anthony.e.davilaw.com  
Owner Name: Jacqueline Trees Phone #: 310-663-6570  
Mailing Address: 1112 Montana Ave., Suite 238, Santa Monica CA  
Email Address: 90403

### Action<sup>1</sup>

- ☐ ARB: Architectural Review Board  
☐ CDD: Planning Staff  
☐ HRC: Historic Resources Committee

- ☒ PC: Planning Commission  
☐ NRC: Natural Resources Committee  
☐ SPRC: Site Plan Review Committee  
☐ ZA: Zoning Administrator

Date of Action: March 17, 2016

Action Taken: Denial of Permit Application by Planning Commission  
Undocumented Unit Permit 15-671

### Appeal Information

Appellant Name: Jacqueline Trees/Anthony Davi Phone #: 831-373-3192  
Mailing Address: 215 W. Franklin St., #205, Monterey, CA 93940  
Email Address: anthony.e.davilaw.com  
Appeal Deadline: 5:00 p.m. on / /  
Grounds for Appeal: Denial of undocumented unit permit by  
Planning Commission.

*If necessary, use additional pages.*

### Fees

Discretionary Fees <sup>2</sup>	\$	
Appeal Fee = 25% of discretionary fees	\$	<u>191.75</u>
Cost of publication of legal notice <sup>3</sup>	\$	<u>300.00</u>
Photocopies _____ copies @ 10¢ each	\$	
Postage <sup>4</sup> <u>36</u> stamps @ <u>40</u> ¢ each	\$	<u>17.28</u>
Other _____	\$	
<b>Total Appeal Fee</b>		<b>509.03</b>

Appellant Signature

Date

March 22, 2016

<sup>1</sup> See Table 23.70.012-1 in the Pacific Grove Zoning Code, which identifies roles of review authorities as they relate to appeals.

<sup>2</sup> Whatever fee was collected by the city for the application for use permit, architectural approval, variance, etc., or combination of more than one fee if more than one decision is being appealed.

<sup>3</sup> Currently averaging \$250-300.

<sup>4</sup> Typically the number of address labels for parcels (or portions thereof) found within a 300 ft radius of the subject parcel (350 ft radius for homes in the Asilomar Dunes area) is approximately 120. Mailing is sent to owners and occupants (including most individual apartments) of properties.





# CITY OF PACIFIC GROVE

Community Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

Tel: 831.648.3190 • Fax: 831.648.3184 • www.cityofpacificgrove.org/cedd

## Permit Application

Agenda No. 11C Attachment 2

Application # Page 1 of 1 671

Date: 10/27/15

Total Fees: 848.50

Received by: WL

Project Address: 210 17 mile Drive

APN: 006-321-015

Project Description: Permit Undocumented Unit

APPLICANT/OWNER:

### Applicant

Name: JYT Properties (Jacqueline Trees)

Phone: 310-663-6570

Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

### Owner

Name: Anthony Davi

Phone: (831) 373-3192

Email: Anthony @ davi.law.com

Mailing Address: 215 West Franklin St #205  
Monterey, CA 93950

### Permit Request:

- |   |   |  |   |
|---|---|--|---|
| <input type="checkbox"/> CRD: Counter Determination | <input type="checkbox"/> AUP: Administrative UP   | <input type="checkbox"/> IHS: Initial Historic Screening   | <input type="checkbox"/> AVAR: Administrative VAR   |
| <input type="checkbox"/> AP: Architectural Permit   | <input type="checkbox"/> UP-A: UP Amendment       | <input type="checkbox"/> HPP: Historic Preservation        | <input type="checkbox"/> VAR-A: VAR Amendment       |
| <input type="checkbox"/> AAP: Administrative AP     | <input type="checkbox"/> AUP-A: AUP Amendment     | <input type="checkbox"/> HD: Historic Determination        | <input type="checkbox"/> AVAR-A: AVAR Amendment     |
| <input type="checkbox"/> ADC: AP Design Change      | <input type="checkbox"/> SU: Second Unit          | <input type="checkbox"/> TPD: Tree Permit W/ Dev't         | <input type="checkbox"/> MMP: Mitigation Monitoring |
| <input type="checkbox"/> SP: Sign Permit            | <input type="checkbox"/> LLA: Lot Line Adjustment | <input checked="" type="checkbox"/> PUU: Undocumented Unit | <input type="checkbox"/> Stormwater Permit          |
| <input type="checkbox"/> UP: Use Permit             | <input type="checkbox"/> LM: Lot Merger           | <input type="checkbox"/> VAR: Variance                     | <input type="checkbox"/> Other:                     |

### CEQA Determination:

- ☒ Exempt  
☐ Initial Study & Mitigated Negative Declaration  
☐ Environmental Impact Report

### Review Authority:

- ☒ Staff  
☒ ZA  
☐ SPRC  
☐ ARB  
☐ HRC  
☐ PC  
☐ CC  
☐ \_\_\_\_\_

### Active Permits:

- ☐ Active Planning Permit  
☐ Active Building Permit  
☐ Active Code Violation  
Permit #: \_\_\_\_\_

### Overlay Zones:

- ☐ Butterfly Zone  
☐ Coastal Zone  
☒ Area of Special Biological Significance (ASBS)  
☐ Environmentally Sensitive Habitat Area (ESHA)

### Property Information

Lot: 3 Block: 313 Tract: P6 Acres

ZC: R-4 GP: HDR 29 du/lac Lot Size: 8,400

- ☐ Historic Resources Inventory ☐ Archaeologically Sensitive Area

### Staff Use Only:

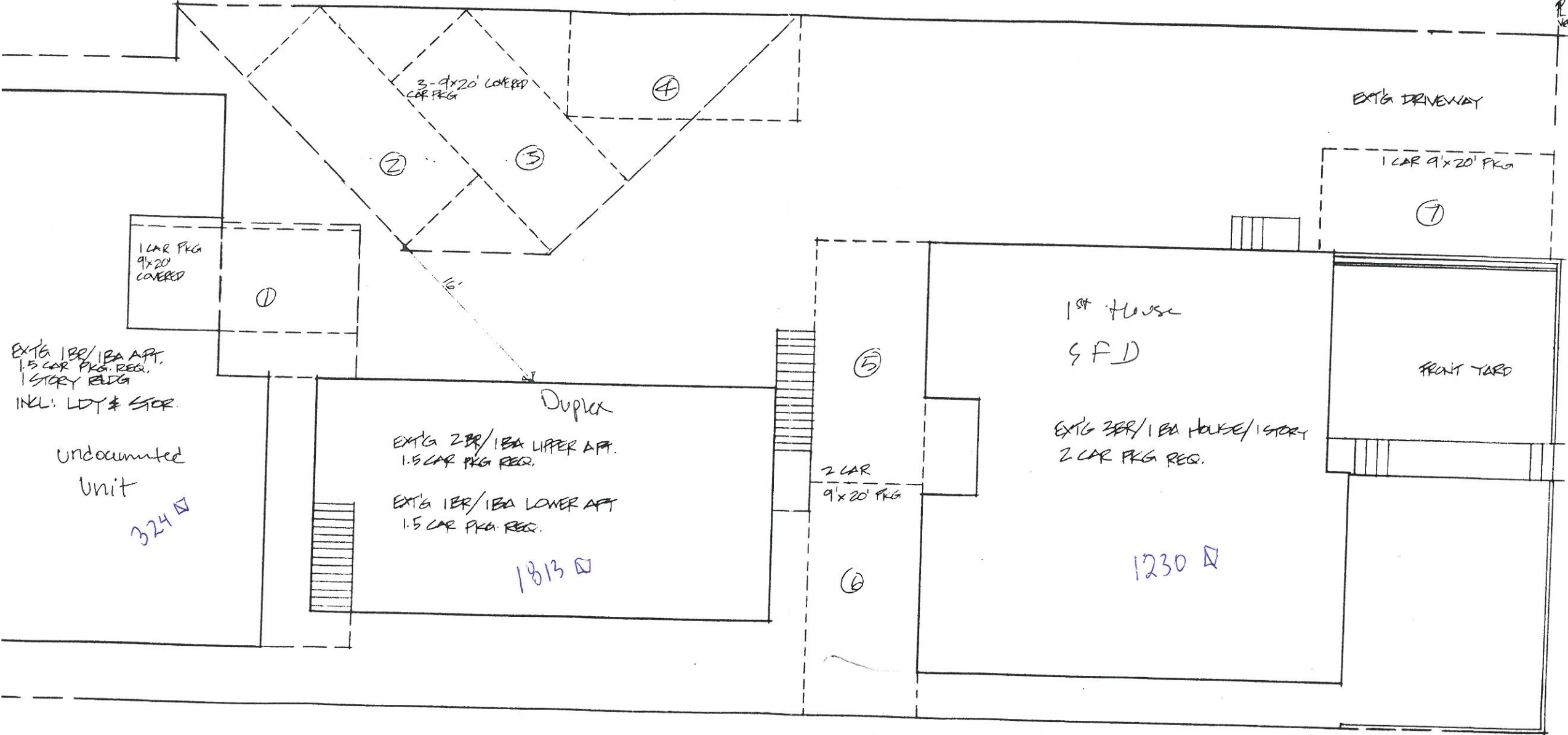
**CERTIFICATION** – I, the undersigned, under penalty of perjury, declare and certify that I am the applicant for this request, that the property owner approves this application and that all statements contained herein, including all documents and plans submitted in connection with this application, are true and accurate to the best of my knowledge.

Applicant Signature: [Signature]

Date: 10-22-15

Owner Signature (Required): [Signature]

Date: 10-22-15



Lot size 8,400



## Online Property Database

Access basic property information without having to leave home.



### Property Details

APN: 006351015000

Site Address: 210 17 MILE DR #C

City: PACIFIC GROVE

Zip Code: 93950-2455

Approx. Lot Size (Sq. Ft.): 8399.31

Archaeological Zone: No

Coastal Zone: No

Historic Resources Inventory: No

Area of Special Biological Significance Watershed: Yes

Butterfly Habitat: No

Environmentally Sensitive Habitat Area: No

Septic: No

Runoff Retention Required: No

Land Use: High Dens 29.0 DU/ac

Lot/Block: PACIFIC GROVE ACRES POR OF BLK 313 A BLK 3313A & POR OF SUB D OF LOT 3 BLK 313A DESC AS EXCEPTION 2 IN VOL 1947 PG 148

Zoning: [R-4](#)

### Building Details

#### Unit Details

Unit Sequence Number: 1

Unit Size (Sq. Ft.): 1230

Number of Bedrooms: 3

Number of Full Bathrooms: 1

Number of Half Bathrooms: 0

Number of Total Rooms: 8

Number of Fireplaces: 1











22







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15

[illegible]



# RESIDENTIAL BUILDING RECORD

ADDRESS

SHEET 2 OF 3 SHEETS

## DESCRIPTION OF BUILDING

### CLASS TYPE CONSTRUCTION RECORD

#### ARCHITECTURE

Light Substand. Standard Above Stand Special

Single Wall Sheathing Conc Block

Brick

Adoba Post Floor Joist Beam Joist

Concrete Reinforced

Brick

Wood Sub Floor

Guest House

Count

More

Medium

Light Heavy

Ins Ceilings

Ins Walls

Steel Sash

Screens

Composition

Compingel

Water Heater

Refrigerator

Book Cases

Interior Com.

Diswasher

Per Prop

Per Prop

Per Prop

Per Prop

Per Prop

Per Prop

Per Prop

Per Prop

### ROOM AND FINISH DETAIL

Rooms Floors Floor Finish Trim Interior Finish

5 112 Material Grade Walls Ceiling

Entr Hall Living Family Den

Wall Unit Radiant

Zone Unit Floor Unit

W-BTU Central

Oil Burner

Grease

Refrigerator

Heat Pump

Gravity

Living Bed

Bed

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PARCEL 6257

36

## ROOM AND FINISH DETAIL

tabbies®

**EXHIBIT**

**TC**



37.

Case No. \_\_\_\_\_

CITY OF PACIFIC GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT  
COMPLAINT AND INVESTIGATION FORM

DATE RECEIVED 10-22-87 BY \_\_\_\_\_

LOCATION OF VIOLATION 210 17 Mile Drive

APN. 06-351-15 ZONE R-4

NAME OF OWNER G.E. Herzog

ADDRESS OF OWNER 212 17 Mile Drive

NAME OF TENANT \_\_\_\_\_

COMPLAINANT/REFERRAL SOURCE \_\_\_\_\_

ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_

COMPLAINT: Visiting the site this morning we suspected an additional unit (it seems that the owner converted a covered carport to a unit). In fact we also found 5 mail boxes instead of 4. Every thing in the file showed 1~~4~~ + 2 units apartment.

ASSIGNED TO \_\_\_\_\_ DATE 10/22/87

INVESTIGATION FINDINGS:

VIOLATION OF \_\_\_\_\_  
DISPOSITION: \_\_\_\_\_

\_\_\_\_\_ UNSUBSTANTIATED COMPLAINT/NO VIOLATION (SEE FINDINGS)  
\_\_\_\_\_ FOLLOW UP/COMPLIANCE DATE \_\_\_\_\_  
\_\_\_\_\_ REFERRED \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_ REASON \_\_\_\_\_  
\_\_\_\_\_ CLEARED \_\_\_\_\_

EXHIBIT

2

**RECORDING REQUESTED BY:**

Chicago Title Company  
Escrow No.: 09-52503687-GW  
Locate No.: CACTI7727-7727-4525-0052503687  
Title No.: 09-52503687-MM

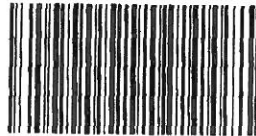
**When Recorded Mail Document  
and Tax Statement To:**

Jacqueline Y. Trees  
1112 Montana Ave #238  
Santa Monica .CA 90403

Stephen L. Vagnini  
Monterey County Recorder  
Recorded at the request of  
**Chicago Title**

CRMELISSA  
10/02/2009  
8:00:00

**DOCUMENT: 2009062533**



Titles: 1/ Pages: 3

Fees.... 13.00  
Taxes... 951.50  
Other...  
AMT PAID \$964.50

APN: 006-351-015

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

**The undersigned grantor(s) declare(s)**  
**Documentary transfer tax is \$951.50.** LP

- [ X ] computed on full value of property conveyed, or  
[ X ] computed on full value less value of liens or encumbrances remaining at time of sale,  
[ X ] City of **Pacific Grove**,

**FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,**

Rafaela Gutierrez, Trustee, or her successors in trust, under the Survivor's Trust established under the Gutierrez Family Trust, dated December 11, 1995 and Louis Daniel Gutierrez, Successor Trustee of the Gutierrez Family Trust dated December 11, 1995

**hereby GRANT(S) to**

Jacqueline Trees, Trustee of the Jacqueline Trees Living Trust dated May 20, 1996  
**the following described real property in the City of Pacific Grove, County of Monterey, State of California:**  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The within document is executed in two counterparts for the purpose of facilitating its execution by the parties hereto. The two counterparts are to be construed and interpreted as a single document

State of ~~California~~ **MAINE**  
County of ~~San Diego~~ **YORK**

The Survivors Trust Established under the Gutierrez Family Trust, dated December 11, 1995

On **SEPTEMBER 10 2009** before me,  
**FRANKIE R KEEFE**, Notary Public  
(here insert name and title of the officer), personally appeared  
**LOUIS DANIEL GUTIERREZ**

Rafaela Gutierrez, Trustee

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

The Gutierrez Family Trust dated December 11, 1995

**Louis Daniel Gutierrez** 9-10-9  
Louis Daniel Gutierrez, Trustee **Trustee**

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature **Frankie R Keefe** (Seal)

Frankie R. Keefe, Notary Public  
State of Maine  
My Commission Expires 3/12/2016



**MAIL TAX STATEMENTS AS DIRECTED ABOVE**



----- Forwarded message -----

From: **Dana Schlagheck** <[schlagheck@monterey.org](mailto:schlagheck@monterey.org)>  
Date: Mon, Nov 30, 2015 at 1:18 PM  
Subject: 210 17-Mile Dr  
To: Laurel O'Halloran <[lohalloran@cityofpacificgrove.org](mailto:lohalloran@cityofpacificgrove.org)>

Laurel,

Per our site visit for documenting an illegal unit at 210 17-Mile Dr, following are the inspection corrections I noted:

Owner needs to submit 3 sets of complete floor plans to the building department for review and approval and to obtain a building permit.

Unit needs a water permit,

Required GFCI protected outlets for kitchen countertops,

Carbon monoxide detector.

Thank you,  
Dana

--

Dana Schlagheck  
City of Monterey  
Inspector



**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

187 Eldorado, Suite C • P.O. Box 85 • Monterey, CA 93942-0085 • (408) 649-2500

# INSPECTION REPORT

**Conservation:** ☒ Change of Title ☐ Change in Use ☐ Existing Business ☐ Reinspection  
**Permits:** ☐ New Construction ☐ Remodel/Addition ☐ Demolition/Credits

**PROPERTY ADDRESS:** 210 n-mile Drive  
**NAME OF BUSINESS:** NA  
**CITY:** Pacific Grove **ZIP:** 93953  
**ASSESSOR'S PARCEL NUMBER:** 006 - 351 - 15  
**OWNER'S NAME:** GE Hertzog **(B) S**  
**PERSON CONTACTED ON SITE:** GE Hertzog **PHONE:** \_\_\_\_\_

This form certifies that an inspection was conducted at the above address. At the time of the inspection, the property ☒ was ☐ was not found to be in compliance with the requirements of Ordinance 30 and/or Permit # \_\_\_\_\_.

The following items were not in compliance (see back of form):

☐ Showerheads ☐ Faucet Aerators ☐ Toilets ☐ Hot Water System ☐ Landscape Irrigation

Inspector's Notes: 3 Apartments - ea 1 bath - U R U F toilets

☐ Violations noted above must be corrected by \_\_\_\_\_  
☐ Reinspection required. Please call 649-2500.  
☐ Send itemized receipts to P.O. Box 85, Monterey, CA 93940.  
☐ Fees for additional fixtures (if any) must be received by \_\_\_\_\_

NA  
Acknowledgement of Receipt Date

Stephanie Hertzog 6-22-90  
MPWMD Representative Date  
CLIENTS' COPY



Escrow No.: 09-52503687-GW  
Locate No.: CACTI7727-7727-4525-0052503687  
Title No.: 09-52503687-MM

## EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PACIFIC GROVE, COUNTY OF MONTEREY, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

### PARCEL I:

BEGINNING at a point on the Westerly line of Dennett Street, distant thereon S. 19° 23' 45" W., 100.00 feet from the point of intersection of said Westerly line of Dennett Street with the Southerly line of Lighthouse Road in the said City of Pacific Grove, California, and running thence S. 19° 23' 45" W., along said Westerly line of Dennett Street, 50.00 feet; thence at right angles N. 70° 36' 15" W., 140.00 feet; thence at right angles N. 19° 23' 45" E., 50.00 feet; thence at right angles S. 70° 36' 15" E., 140.00 feet to the point of beginning.

Being a part of that certain tract of land conveyed by Madelaine Crenner to U. Leandro and May Leandro, his wife, by deed dated July 5, 1945 in Volume 872 of Official Records of Monterey County, at Page 300.

### PARCEL II:

BEGINNING at a point on the Westerly line of Dennett Street, distant thereon s. 19° 23' 45" W., 90 feet from the point of the intersection of said Westerly line of Dennett Street, now 17 Mile Drive, with the Southerly line of Lighthouse Avenue, in the City of Pacific Grove, California; and running thence S. 19° 23' 45" W., along said Westerly line of 17 Mile Drive, 10 feet; thence at right angles N. 70° 36' 15" W., 140 feet; thence N. 19° 23' 45" E., 5.88 feet to the Southwest corner of that certain parcel of land conveyed to Mildred Waterman, et al., by deed dated December 10, 1956 in Volume 1758 of Official Records of Monterey County, at Page 446; thence at right angles S. 70° 36' 15" E., 18.11 feet to the Southeast corner thereof; thence along the Southeasterly boundary thereof N. 41° 20' 15" E., 4.12 feet, more or less, to the point of intersection thereof with a line drawn N. 70° 36' 15" W., from the point of beginning; thence leaving said Southeasterly boundary S. 70° 36' 15" E., to the point of beginning.

APN: 006-351-015

END OF DOCUMENT

206



# APPLICATION FOR BUILDING PERMIT CITY OF PACIFIC GROVE

DATE 3-30-78  
 Agenda No. 11C Attachment 2  
 PERMIT NO. 02230  
 Page 15 of 19  
 TRACT Pg. Acres.

ASSESSOR'S NO. 6-351-4  
 Location Of Work 210-17 Mile Drive Lot 3B Block 313 A  
 Owner Herzog-Fugitt Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Contractor Owner Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Eng./Arch. \_\_\_\_\_ Phone \_\_\_\_\_  
 Address \_\_\_\_\_ Financed by \_\_\_\_\_

RECEIPT NO.	STORIES	TYPE	SITE DIMENSIONS & AREA

SET BACKS IN FEET				COVERAGE DATA
FRONT	SIDE	SIDE	REAR	
				ALLOWED
				EXISTING
				NEW
				TOTAL

FIRE ZONE	USE ZONE	BLDG. TYPE
<u>III</u>	<u>R-1</u>	<u>3-units</u>

TYPE IMPROVEMENT  
☐ BUILD ☐ REMODEL ☒ ADD TO ☐ REPAIR ☐ ALTER  
☐ MOVE ☐ DEMOLISH ☐ OTHER Workshop

OWNER BUILDER SURCHARGE  
**A SURCHARGE OF 10% OR \$3.00 WHICHEVER IS GREATER IS REQUIRED BECAUSE OF THE INCREASED NUMBER OF INSPECTIONS NECESSARY ON OWNER BUILDER PERMITS**

VALUATION	
	<u>\$13,600.00</u>
FEES	
PERMIT	<u>83.00</u>
PLAN CK.	<u>41.00</u>
SUB-TOTAL	
SMIP	<u>0.00</u>
PENALTIES	
TOTAL	<u>\$125.00</u>

**DESCRIPTION OF WORK AUTHORIZED**

DVWY. PERMIT NO. \_\_\_\_\_  
 ELE CONTR. \_\_\_\_\_  
 MECH. CONT. \_\_\_\_\_  
 PLUMB. CONT. \_\_\_\_\_  
 VARIANCE NO. 78-378 DATE \_\_\_\_\_  
 ARCHITECTURAL APPROVAL NO. \_\_\_\_\_ DATE \_\_\_\_\_  
 USE PERMIT NO. \_\_\_\_\_ DATE \_\_\_\_\_  
 TREE PERMIT NO. \_\_\_\_\_  
 CURB GUTTER & SIDEWALK PERMIT NO. \_\_\_\_\_

New workshop

THIS APPLICATION BECOMES A BUILDING PERMIT WHEN PROPERLY FILLED OUT, SIGNED BY APPLICANT, AND APPROVED BY BUILDING INSPECTOR.

Application Approved [Signature] Date 3-30-78  
 BUILDING INSPECTOR

THE ABOVE APPROVAL GRANTS PERMISSION TO DO THE WORK COVERED BY THIS APPLICATION IN ACCORDANCE WITH PLANS AS APPROVED AND ALL APPLICABLE COUNTY AND STATE ORDINANCES, REGULATIONS AND LAWS GOVERNING LOCATION, CONSTRUCTION AND OCCUPANCY OF BUILDING.

**EXPIRATION OF PERMIT**

THIS PERMIT EXPIRES IF THE BUILDING OR WORK AUTHORIZED HEREIN IS NOT COMMENCED WITHIN 60 DAYS FROM DATE OF APPROVAL, OR IF WORK IS SUSPENDED FOR A PERIOD OF 120 DAYS OR ABANDONED AFTER EXPIRATION, THIS PERMIT MUST BE RENEWED BEFORE THE WORK MAY BE COMMENCED AGAIN.

**Warning:** Trees on the streets of Pacific Grove are public property and under City control. Permission to remove trees may be obtained only from the City.

**This permit does not include any signs or flood lighting.**

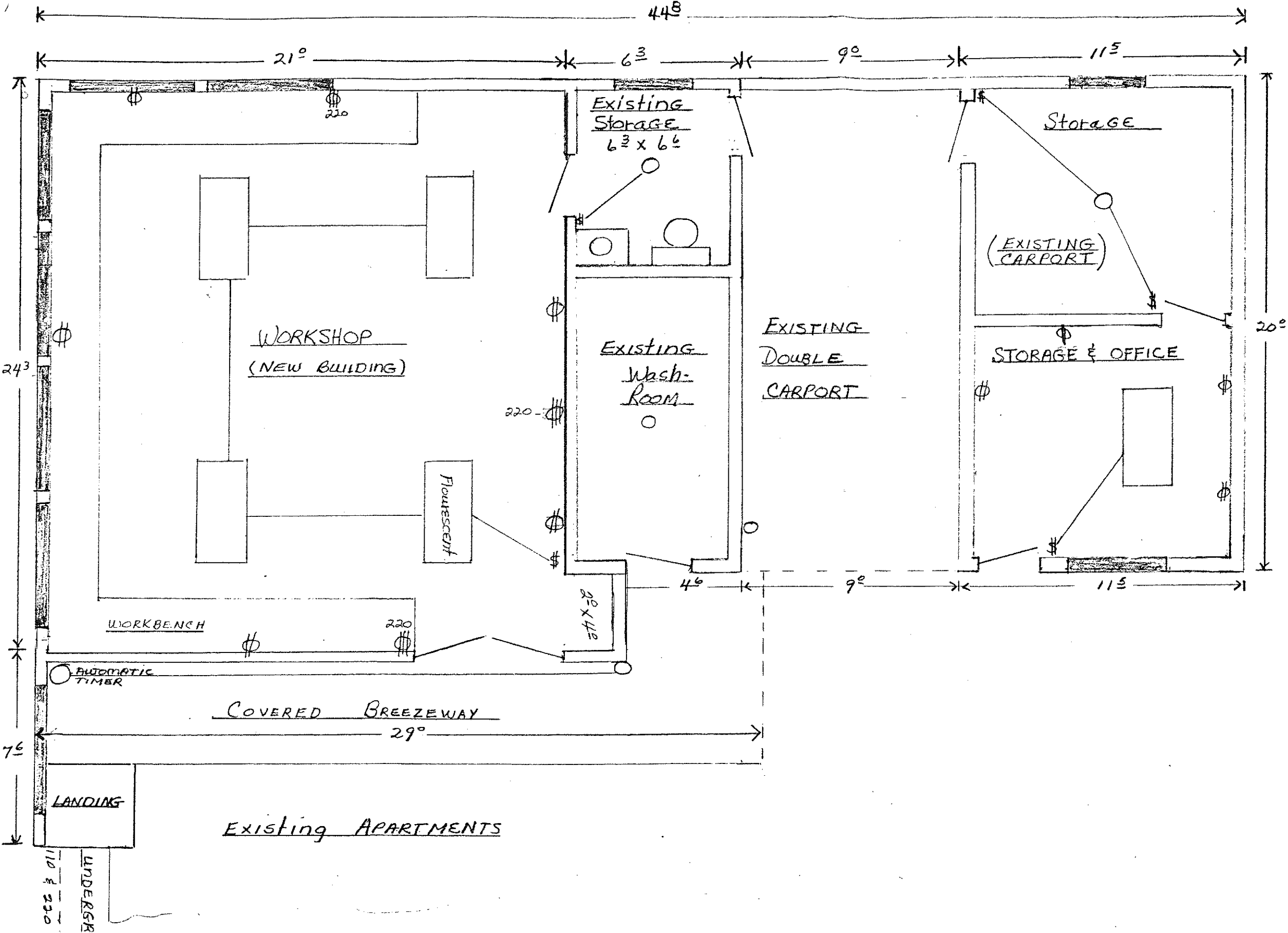
GRADE LINES AS SHOWN ON DRAWING ACCOMPANYING THIS APPLICATION ARE ASSUMED TO BE CORRECT. IF ACTUAL GRADE LINES ARE NOT THE SAME AS SHOWN, REVISED DRAWINGS SHOWING CORRECT GRADE LINES, CUTS AND FILLS, TOGETHER WITH COMPLETE DETAILS OF RETAINING WALLS AND WALL FOOTINGS REQUIRED MUST BE RESUBMITTED TO THIS DIVISION FOR APPROVAL.

IN CONFORMITY WITH THE PROVISIONS OF SECTION 3800 OF THE LABOR CODE OF THE STATE OF CALIFORNIA, APPLICANT SHALL FILE WITH THE BUILDING INSPECTOR THE CERTIFICATES, DESIGNATED IN (1) AND (2) BELOW AND/OR SHALL INDICATE ITEM (3), (4), OR (5) WHICHEVER IS APPLICABLE.

- (1) CERTIFICATE OF CONSENT OF SELF-INSURED ISSUED BY THE DIRECTOR OF INDUSTRIAL RELATIONS
- (2) CERTIFICATE (OR EXACT DUPLICATE COPY) OF WORKMEN'S COMPENSATION INSURANCE ISSUED BY AN ADMITTED INSURER.
- ☐ (3) THE COST OF THE WORK TO BE PERFORMED IS \$100 OR LESS.
- ☐ (4) I CERTIFY THAT IN THE PERFORMANCE OF THE WORK FOR WHICH THIS PERMIT IS ISSUED THAT I SHALL NOT EMPLOY ANY PERSON IN ANY MANNER SO AS TO BECOME SUBJECT TO THE WORKMEN'S COMPENSATION LAWS OF CALIFORNIA.
- ☐ (5) I CERTIFY THAT THE APPLICANT IS LICENSED UNDER THE PROVISIONS OF CHAPTER 9 (COMMENCING AT SECTION 7000) OF DIVISION 3 OF THE BUSINESS AND PROFESSIONS CODE, AND SAID APPLICANT'S CALIFORNIA STATE CONTRACTOR'S.

HALF DAY NOTICE IS REQUIRED FOR ALL INSPECTIONS.

LICENSE NO. \_\_\_\_\_ CLASSIFICATION IS IN FULL FORCE AND EFFECT  
 APPLICANT'S SIGNATURE Charles F. Fugitt















## ORDINANCE NO. 13 - 005

### **AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING CHAPTERS 23.64, 23.70, AND 23.86 OF THE PACIFIC GROVE MUNICIPAL CODE TO PROVIDE, IN ADDITION TO THE SECOND UNIT ORDINANCE, AN OPTION FOR PROPERTY OWNERS THAT HAVE PURCHASED A RESIDENTIAL PROPERTY PRIOR TO 1987 WITH ONE OR MORE UNDOCUMENTED SECONDARY DWELLING UNITS TO PERMIT SUCH UNITS**

#### **FINDINGS**

1. The Pacific Grove City Council is concerned about the existence of dwelling units within the City that are not in compliance with the City's building, zoning and health and safety codes and/or the City's permitting requirements as these units could compromise the public peace, health and safety and quality of life for Pacific Grove residents. The Council is further concerned about the existence of dwelling units within the City which have unpermitted water fixtures.
2. California Health and Safety Code Section 17920.3 defines substandard housing to include the existence of conditions to an extent that endanger the life, limb, health, property, safety, or welfare of the public or the occupants. Section 17920.3 specifies such conditions to include and arise from inadequate sanitation, structural hazards, nuisance, wiring, plumbing, mechanical equipment, faulty weather protection, construction materials, and buildings or portions thereof occupied for living, sleeping, cooking or dining purposes that were not designed or intended to be used for those occupancies.
3. Prior City efforts to address this issue resulted in the City Council's adoption of the Pacific Grove Municipal Code (PGMC) Chapter 23.80, Second Units, which was championed as a way to develop affordable housing units in a community that was almost built to capacity.
4. On July 16, 2008, the City Council approved City Council Policy No. 600-6, which directs staff to actively pursue code violation complaints of substandard dwelling units to enforce its building and zoning code, and to bring substandard dwelling units into compliance.
5. In 2011, in accord with state law, the City Council adopted the updated Housing Element to cover the 2007-2014 housing cycle. It was certified by the California Department of Housing and Community Development in December 2011. The Housing Element is one of the seven state-mandated elements of the General Plan, which is the comprehensive, long-range plan for the physical development of the city. One of the key goals of the Housing Element is to *"Provide diverse, high quality housing choices appropriate for residents at all levels of income."* A number of policies and programs implement this goal, including Program 2.3.12, which requires the City to *"Evaluate the feasibility of reinstating the Illegal Housing Unit Registration Program if the units meet health and safety inspection and documentation requirements. Unit*



*registration should require a deed restriction stipulating that the unit is affordable to very low-income households in perpetuity."* The City found that a program to permit undocumented units built prior to the owner purchasing the property and prior to the 1987 State Real Estate Disclosure Law going into effect would not appreciably affect the City's ability to implement Program 2.3.12.

6. In response to a citizen request, on November 8, 2012, the Planning Commission took up the issue of undocumented units within the City. The Commission received a background report on how the City has addressed the issue of undocumented dwelling units over time and current City policy. Commission members expressed concern with the plight of unsuspecting property owners that have purchased property with one or more preexisting secondary dwelling units on-site only to discover later that the units are unpermitted. The Commission directed staff to develop language that would enable undocumented units to be legalized if there are no health and life safety conditions that render the units unsafe, if the units pre-date the current property owner's purchase of the property, and if the property purchase occurred prior to the City's Residential Zoning Records Report (RZRR) requirement going into effect in 1986.

7. On December 6, 2012, the Planning Commission held a subsequent discussion and fine-tuned the proposal, opting to use the effective date of the State Real Estate Disclosure Law (January 1, 1987) as the cut-off date for creation of undocumented units, due to concerns that some property sellers may not have complied with the RZRR requirement at time of sale or transfer during the early years of RZRR implementation.

8. The Planning Commission held a public hearing on February 7, 2013, received public testimony, discussed the draft ordinance in detail, and voted 6-0 to forward a recommendation of approval to the City Council.

9. Notice of the Planning Commission public hearing was published in the Monterey County Herald on January 28, 2013. Notice of the City Council public hearing on the second reading of the draft ordinance was published in the Monterey County Herald on \_\_\_\_\_.

10. This ordinance amends PGMC Chapter 23.64, entitled "General Provisions and Exceptions," Chapter 23.70, entitled "Community Development Permit Review Authorities and Procedures," and Chapter 23.86, entitled "Public Meeting and Hearing Procedures," of the Municipal Code, in order to add a process for permitting undocumented dwelling units.

11. These amendments are enacted based on the authority vested in the City of Pacific Grove by the State of California, including but not limited to: the State Constitution; the Planning and Zoning Law (Government Code Sections 65000 et seq.); and the California Coastal Act (Public Resources Code Sections 30000 et seq.).

12. These amendments are a primary tool used by the City to carry out the goals, objectives, and policies of the Pacific Grove General Plan and Local Coastal Program (LCP). The Pacific Grove City Council intends that these amendments be consistent with

the City's General Plan and LCP, and that any land use approved in compliance with these amendments will also be consistent with the General Plan and LCP.

13. These amendments have been reviewed in accordance with the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq., and Chapter 23.77 of the Pacific Grove Municipal Code. Based on this review, it was determined that the proposed amendment would not result in significant adverse impacts to the environment. A Proposed Negative Declaration was prepared and a Notice of Availability (NOA) / Notice of Intent (NOI) to Adopt a Negative Declaration was issued on December 28, 2012 and recirculated on January 25, 2013.

14. This ordinance shall incorporate the Council's adoption and approval of the Recirculated Negative Declaration (ND) attached to the agenda report. Council has considered the ND in accord with the CEQA, CEQA Guideline Section 15074(b), together with any comments received during the public review process. Council adoption of the ND is based upon its determination, on the basis of the whole record before it (including the Initial Study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment. The ND reflects the City Council's independent judgment and analyses.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:**

SECTION 1. The foregoing findings are adopted and integrated into this ordinance as though set forth in full.

SECTION 2. Existing Municipal Code Chapter 23.64, entitled "General Provisions and Exceptions" shall be amended by the addition of all text shown in bold, italic text (***bold, italic text***), as follows:

Sections:

- 23.64.010 Application of chapter.
- 23.64.020 Use permit – Circus, open-air theater, racetrack.
- 23.64.030 Use permit – Dancehall, roadhouse, nightclub, etc.
- 23.64.035 Coin-operated amusement devices.
- 23.64.040 Accessory uses in C, I, U districts.
- 23.64.050 Use permit – Parking lots – R district.
- 23.64.055 Use permit – Downtown public gathering area.
- 23.64.060 Use permit – Public buildings, parks, etc.
- 23.64.065 Use permit – Group quarters.
- 23.64.070 Use permit – Earth, mineral removal.
- 23.64.080 Commercial uses – R-1, R-2 districts.
- 23.64.090 Commercial uses – R-3 district.
- 23.64.110 Family daycare homes.
- 23.64.115 Food service establishments.
- 23.64.119 Garden structures.



- 23.64.120 Height limits – Chimneys, flagpoles, towers, etc.
- 23.64.130 Height limits – Fences, hedges, or other visual obstructions.
- 23.64.135 Prohibited fences.
- 23.64.140 Building site area.
- 23.64.145 Separate building site – R-1 district.
- 23.64.147 Separate building site – R-3-P.G.R. district.
- 23.64.150 Yards – Projection of cornices, eaves, etc.
- 23.64.160 Yards – Projection of open porches, stairways, etc.
- 23.64.170 Yards – Measured from official plan line.
- 23.64.180 Accessory buildings and structures.
- 23.64.185 Accessory use – Storage of portable or movable objects.
- 23.64.190 Off-street parking, storage.
- 23.64.195 Landscaping of front and side yards.
- 23.64.240 Parking or placement of large vehicles or structures in certain areas of residential premises – Prohibited.
- 23.64.290 Liquor sale provisions.
- 23.64.300 Application for abandonment or purchase of city property.
- 23.64.310 Swimming pools.
- 23.64.320 Unlawful sale of subdivided contiguous lots.
- 23.64.340 Consistency with county hazardous waste management plan.
- 23.64.350 Prohibition of transient use of residential property for remuneration.
- 23.64.360 Permitting of Undocumented Dwelling Units**

**23.64.360 Permitting of Undocumented Dwelling Units**

*When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H Districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.*

*In the absence of a City permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the State Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.*

*(a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987 shall include one or more of the following:*

- (1) Tax records that show income from the unit(s) prior to that date.*
- (2) Monterey County Assessor's property tax information recognizing the unit(s) prior to that date.*
- (3) Utility bills prior to that date if there were separate meters.*
- (4) Personal references from tenants or neighbors verifying occupancy of the unit(s) prior to that date.*
- (5) Property sales information prior to that date that notes the separate unit(s).*

*(6) Other substantial evidence that similarly documents the existence of the unit(s) prior to that date.*

*(b) Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in (a) above, plus one of the following:*

*(1) Recorded deed demonstrating the date of purchase by the current owner.*

*(2) Other substantial evidence that similarly documents the date of purchase by the current owner.*

*(c) Before applying for permitting of an undocumented unit, the owner shall also:*

*(1) Have an inspection of the undocumented unit(s) by the Building Official to verify that there are no health and life safety conditions that render the unit(s) unsafe, and correct any unsafe conditions required by the Building Official.*

*(2) Obtain the final Building Inspection Record, including inspection sign-off of any corrections required.*

*(3) For undocumented units created after March 1, 1985, obtain verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits.*

*(d) Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation.*

*(e) Conditions placed on Second Units pursuant to PGMC Chapter 23.80 shall not apply to undocumented units permitted through this process.*

SECTION 3. Existing Municipal Code Sections 23.70.012 and 23.70.030 of Chapter 23.70, entitled "Community Development Permit Review Authorities and Procedures," shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold, italic text***), as follows:

**23.70.012 Types of community development permits and related review authorities.**

Table 23.70.012-1, entitled "Types of Review, Applications, and Roles of Review Authorities," identifies the city official or body responsible for reviewing and making decisions on community development permit applications, legislative amendments, and other actions required by these regulations.

**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
ARB = Architectural Review Board, CC = City Council, HRC = Historic Resources Committee, HRI = Historic Resources Inventory, LCP = Local Coastal Program, PC = Planning Commission, PGMC = Pacific Grove Municipal Code Section, SPRC = Site Plan Review Committee, and ZA = Zoning Administrator.							
<b>Counter Review:</b> Recommended preliminary staff review of projects to determine compliance with zoning code, need for							



**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
further permit applications, or determination of which track below best suits the situation. (PGMC <u>23.70.018</u> )							
<b>Counter Review and Determination:</b> Required chief planner review of specific projects or land uses in order to verify compliance with zoning standards. (PGMC <u>23.70.020</u> )							
<b>Staff Approvals:</b> For timely approval of permits for the following projects and uses:							
Admin. architectural permit – not on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision		Appeal <sup>5</sup>			Appeal <sup>5</sup>
Admin. architectural permit – on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2,3</sup>			Hearing/ Decision		Appeal <sup>5</sup>	Appeal <sup>5</sup>
Architectural design change – not on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision		Appeal <sup>5</sup>			Appeal <sup>5</sup>
Architectural design change – on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2,3</sup>			Hearing/ Decision		Appeal <sup>5</sup>	Appeal <sup>5</sup>
Lot merger (PGMC <u>23.70.030</u> , <u>24.04.030</u> )	Decision	Hearing/ Decision				Appeal <sup>5</sup>	Appeal <sup>5</sup>
Admin. sign permit (PGMC <u>23.70.030</u> )	Decision	Hearing/ Decision		Appeal <sup>5</sup>			Appeal <sup>5</sup>
Admin. use permit and admin. use permit amendments <sup>7</sup> (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision				Appeal <sup>5</sup>	Appeal <sup>5</sup>
Admin. variance and admin. variance amendments (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision				Appeal <sup>5</sup>	Appeal <sup>5</sup>
<b>Permitting of Undocumented Dwelling Units (PGMC <u>23.70.030</u>)</b>	<b>Decision<sup>2</sup></b>	<b>Hearing/ Decision</b>				<b>Appeal<sup>5</sup></b>	<b>Appeal<sup>5</sup></b>
<b>Zoning Administrator:</b> For the following applications:							
Interpretations of permitted use lists (PGMC <u>23.70.040</u> , Chapter <u>23.82</u> PGMC)		Decision <sup>6</sup>				Appeal	Appeal

**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
Historic relocation permit – on-site (PGMC <u>23.70.040</u> , <u>23.76.100</u> )		Decision <sup>6</sup>				Appeal	Appeal
Parcel map (PGMC <u>23.70.040</u> , Chapter <u>24.08</u> PGMC)		Decision <sup>6</sup>				Appeal	Appeal
<b>Site Plan Review Committee:</b> For the following approvals:							
Lot line adjustment (PGMC <u>23.70.050</u> , <u>24.04.030</u> )			Decision			Appeal	Appeal
Site plan review (multifamily/ commercial/industrial projects only) (PGMC <u>23.70.050</u> )			Review and Comment				
<b>Architectural Review Board:</b> For the following applications:							
Architectural permit for new construction, major alteration, or demolition/reconstruction – not on HRI (PGMC <u>23.70.060</u> )				Decision		Appeal	Appeal
Architectural permit for major alteration – on HRI (PGMC <u>23.70.060</u> )				Decision		Appeal	Appeal
Historic preservation permit (PGMC <u>23.70.060</u> , <u>23.76.060</u> )				Decision		Appeal	Appeal
Historic demolition permit (PGMC <u>23.70.060</u> , <u>23.76.090</u> )				Decision		Appeal	Appeal
Historic relocation permit – off-site (PGMC <u>23.70.060</u> , <u>23.76.100</u> )				Decision		Appeal	Appeal
Sign Permit (PGMC <u>23.70.060</u> )				Decision		Appeal	Appeal
<b>Historic Resources Committee:</b> For the following applications:							
Historic determination (PGMC					Decision	Appeal	Appeal



**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
<u>23.70.070, 23.76.030</u>							
Initial historic screening request (PGMC <u>23.70.070</u> )	Decision				Recommend		
<b>Planning Commission:</b> For the following applications:							
Use permit and use permit amendments (PGMC <u>23.70.080(a)</u> )						Decision	Appeal
Variance and variance amendments (PGMC <u>23.70.080(b)</u> )						Decision	Appeal
Tentative tract map (Chapter <u>24.12</u> PGMC)						Decision	Appeal
Final tract map (Chapter <u>24.16</u> PGMC)						Decision	Appeal
<b>Administrative and Amendments:</b> For legislative actions and code interpretations (other than interpretations for permitted use lists), the following applies:							
General plan amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
LCP amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
Zoning text amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
Zoning map amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
Interpretations of Code (PGMC <u>23.04.040</u> )	Decision <sup>1</sup>					Appeal	Appeal

1. "Decision" means that the review authority makes the decision on the matter; "hearing" means that the review authority holds a hearing and renders a decision only if requested in response to a notice, in compliance with PGMC 23.70.030 (Staff approvals); "appeal" means that the review authority may

consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 23.74 PGM (Appeals and Call-Ups); "recommend" means that the review authority makes a recommendation to a higher decision-making body.

2. The chief planner may defer action and refer the item to the hearing authority for decision.
3. If an administrative architectural permit or an architectural design change is accompanied by a historic preservation permit, both applications shall be reviewed concurrently by the architectural review board.
4. The chief planner may defer action and refer the item to the first appeal authority for decision.
5. Appeal authority may review matter only if the hearing authority held a public hearing and rendered a decision.
6. The zoning administrator may defer action and refer the item to the first appeal authority for decision.
7. Administrative use permits are broken down into major and minor categories, to reflect the reduced staff time required and lower corresponding fee for projects in the minor category, pursuant to PGM 23.70.030(b)(7).

### **23.70.030 Staff approvals.**

(a) Purpose. This section establishes procedures and findings for the issuance of, and effective time periods for, staff-approved permits. No public hearings are held unless a request for a hearing is submitted or the chief planner refers it to the hearing authority. The intent of this section is to ensure that community development permits are in compliance with the general plan, local coastal program, and these regulations, and are issued quickly yet allow for public review.

(b) Applicability. As summarized in Table 23.70.012-1, the chief planner or designee is the decision-making authority for the following community development permits:

(1) Administrative Architectural Permits (on HRI, determined by the city to be eligible for the HRI, or 50 years of age or older with an undetermined historic status). In all residential zoning districts, administrative architectural permits may be granted for the following structures and the following alterations to buildings listed on the historic resources inventory (HRI), determined by the city to be eligible for the HRI, or to buildings that are 50 years of age or older and have an undetermined historic status:

(A) Outside of the coastal zone, an exterior modification to side and/or rear elevations, or an addition to side and/or rear elevations where the addition is less than 400 square feet or 10 percent of existing floor area, whichever is less, of a single-family home, duplex or triplex, if all of the following apply:

- (i) Does not enlarge or create a second story; and
- (ii) The chief planner has determined that it is consistent with the Secretary of the Interior's standards for historic rehabilitation and the State Historic Building Code.

(B) Outside of the coastal zone, Category 1 detached accessory structures larger than 120 square feet, pursuant to Table 23.64.180.

(C) Both within and outside the coastal zone, deer fencing, not to exceed six feet, if within front, side, and rear yards, pursuant to PGM 23.64.130(d).

Exception: If accompanied by a historic preservation permit application, an administrative architectural permit shall be referred to the architectural review board to



hold a public hearing and to take action on both applications concurrently, pursuant to PGMC 23.70.060 (Architectural Review Board).

(2) Administrative Architectural Permits (not on HRI). Administrative architectural permits may be granted for the following structures and the following alterations to a building that has been determined by the city to be ineligible for the historic resources inventory, or is less than 50 years of age:

(A) In the R-1 zoning districts outside of the coastal zone, any exterior modifications or additions to a single-family home, duplex or triplex that are 25 percent or more of existing floor area and do not enlarge or create a second story, if the chief planner determines that the exterior modifications and additions are “visually significant” as viewed from the adjacent street(s);

(B) In the R-1 zoning districts outside of the coastal zone, any of the following modifications to a single-family home, duplex or triplex:

(i) Replacement of chimneys, siding, doors, porches, decks, or other exterior feature(s), if the replacement materials and design are determined by the chief planner to be “visually significant” as viewed from the adjacent street(s);

(ii) Replacement of windows (including change in window location of up to 12 inches from existing location), if the replacement materials meet the definition of “visually significant,” pursuant to the Window Guidelines, Appendix IV of the Pacific Grove Architectural Review Guidelines; and

(iii) Roof material change and/or roof pitch change, such that the change is determined by the chief planner to be “visually significant” as viewed from the adjacent street(s);

(C) In the R-2, R-3, and R-4 zoning districts, outside of the coastal zone, any of the following modifications or additions to a single-family home, duplex or triplex:

(i) Replacement of chimneys, siding, doors, porches, decks, or other exterior feature(s), if the replacement materials and design are either in-kind; or matching the existing or original materials and design, such that the change is determined by the chief planner to be “visually insignificant” as viewed from the adjacent street(s);

(ii) Replacement of windows (including change in window location of up to 12 inches from existing location), if the replacement materials are either in-kind, matching or are considered an upgrade of the existing or original materials, which would meet the definition of “visually insignificant,” pursuant to the Window Guidelines, Appendix IV of the Pacific Grove Architectural Review Guidelines;

(iii) Roof material change and/or roof pitch change, such that the change is determined by the chief planner to be “visually insignificant” as viewed from the adjacent street(s) or is considered appropriate to the architectural style of the structure;

(iv) Exterior modifications and additions that are 25 percent or more of existing floor area and do not enlarge or create a second story, and that the chief planner determines to be “visually insignificant” as viewed from the adjacent street(s); and

(v) Exterior modifications or an exterior addition, where the addition is less than 400 square feet or 10 percent of existing floor area, whichever is less, and where the alterations and/or addition is determined to be "visually significant" as viewed from the adjacent street(s) and does not enlarge or create a second story;

(D) Roof overhang, roofing material, and siding material modifications for any mobile home installed in other than the R-1-M-H district;

(E) Water heater or utility enclosure if the exterior material does not match the existing siding and the chief planner determines it is "visually significant" as viewed from the adjacent street(s);

(F) Water cisterns or rainwater collection equipment not meeting the provisions of PGMC 23.70.020(b)(6)(B);

(G) Outside of the coastal zone, Category 1 detached accessory structures larger than 120 square feet, pursuant to Table 23.64.180; and

(H) Within the coastal zone, deer fencing, not to exceed six feet, if within front, side, and rear yards, pursuant to PGMC 23.64.130(d).

(3) An administrative architectural permit shall also be required for projects located outside the coastal zone and listed in PGMC 23.70.020(b)(1), (3), (4), (5) or (6), that are accompanied by an administrative use permit or administrative variance. The two permits shall be processed concurrently, in accordance with this section. If located within the coastal zone, an architectural permit shall be required for projects listed under PGMC 23.70.020(b)(1)(A), (C) and (D), (b)(2)(F), and (b)(3)(A) and (C), pursuant to PGMC 23.70.060 (Architectural Review Board).

(4) Architectural Design Changes. Once an architectural permit, outside the coastal zone, or an administrative architectural permit has been approved, but before the associated building permit has been finalized, changes that modify the exterior elevations of the project shall be processed as an architectural design change; provided, that cumulative design changes to a prior architectural permit or administrative architectural permit shall not appreciably alter the originally approved design. This applies to properties either on the HRI or not on the HRI.

Exception: If accompanied by a historic preservation permit application, an administrative design change shall be referred to the architectural review board to hold a public hearing and to take action on both applications concurrently, pursuant to PGMC 23.70.060 (Architectural Review Board).

(5) Lot Mergers. Lot mergers, in accordance with this section and the procedures in PGMC 24.04.030 (Subdivision Standards).

(6) Administrative Sign Permit. An administrative sign permit may be granted for the following:

(A) A flat sign in the C-1, C-2, or I zones that has a sign area of 25 square feet or less, is attached to or is painted on a building so as not to project more than six inches from the building, and is the only permanent sign displayed on the premises; and

(B) New commercial signs or modifications to an existing sign that comply with an existing master sign program for the site.



(7) Administrative Use Permits. Administrative use permits and administrative use permit amendments may be granted for the following:

(A) Major Administrative Use Permits.

- (i) Detached or semi-detached rooms within the R-1 zoning districts;
- (ii) Averaging of side yards for interior sites within the R-1 and R-2 zoning districts, pursuant to PGMC 23.16.060(b)(1) and 23.20.070(b)(1);
- (iii) Accessory buildings and structures that are 120 square feet or less in area, pursuant to Table 23.64.180;
- (iv) Rooming houses, boarding houses, and professional uses within the R-4 zoning district;
- (v) Businesses requiring a use permit in the C-1 zoning district, where the business will occupy less than 1,500 square feet of floor space of the building containing the business and either:
  - a. Was completed prior to 1980 and is in an established off-street parking district, or
  - b. Has on-site parking spaces as prescribed by the planning commission to include the use involved;
- (vi) Gardening on vacant lots within the C-1 zoning district;
- (vii) Uses allowed with a use permit within the R-3-P.G.B. zoning district;
- (viii) Earth and mineral extraction for commercial purposes;
- (ix) Foster and day care homes under PGMC 23.64.110 (Family Daycare Homes);
- (x) Projection of open porches, stairways, etc., under PGMC 23.64.160 (Yards);
- (xi) Accessory storage of portable or movable objects under PGMC 23.64.185 (Accessory Use); and
- (xii) Extension, change, or restoration of a nonconforming use under Chapter 23.68 PGMC (Nonconforming Uses and Buildings).

(B) Minor Administrative Use Permits.

- (i) Structures, appurtenances, fences, deer fences, hedges, screen plantings, or other visual obstructions (other than allowed garden structures) in excess of height limits under PGMC 23.64.120 and 23.64.130 (Height Limits); and
- (ii) Garden structures exceeding the standards required by PGMC 23.64.119 (Garden Structures).

(8) Administrative Variances. Administrative variances and administrative variance amendments may be granted for the following:

(A) Reductions in required yards or setbacks that are 20 percent or less of the required distance;

(B) Increases in allowable building site coverage of five percent or less for additions to an existing structure;

(C) The occupancy of any part of a required side or rear yard by a driveway or parking pad; and

(D) The elimination of a required covered parking space in the R-1 zoning districts where the absence of the space is a legal nonconforming condition of an existing single-family use and where a parking space is not physically possible.

***(9) Permitting of Undocumented Dwelling Units, pursuant to PGMC***

***23.64.360.***

(c) Review Process. Upon submittal of one of the community development permit applications listed in this section, the department shall process it in accordance with Chapter 23.72 PGMC (Permit Application Filing and Processing) and the following:

(1) Staff reviews the proposed project for compliance with the general plan, certified local coastal program, these regulations, and other applicable conditions and regulations.

(2) The chief planner issues a notice of administrative decision, pursuant to the procedures in PGMC 23.86.030, or determines that the permit application presents issues of sufficient public concern to warrant a public hearing and refers the application directly to the appropriate hearing authority, pursuant to Table 23.70.012-1. The hearing authority decision may be appealed or called-up in accordance with Chapter 23.74 PGMC (Appeals and Call-Ups).

(3) If no written request for a hearing is received by the department within 10 days of the issuance of the notice of administrative decision, the action of the chief planner is final, and the appeal and call-up procedures in Chapter 23.74 PGMC (Appeals and Call-Ups) do not apply.

(d) Review Criteria. For architectural review projects, the criteria in PGMC 23.70.060(e) shall apply.

(e) Findings Required for Approval. Permit applications under this section shall be approved or approved with conditions, only if the review authority first makes all of the following applicable findings:

***(1) Findings for All Staff Approvals Under This Section.***

(A) The proposed development conforms to the applicable provisions of the general plan, the local coastal program, any applicable specific plan, and these regulations;

(B) The proposed development is located on a legally created lot;

(C) The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivision, setbacks, and any other applicable provisions of this municipal code, and all applicable zoning violation enforcement and processing fees have been paid; and

(D) The proposed development is in compliance with all citywide permits, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) permit.

***(2) Additional Findings for Administrative Architectural Permits and Architectural Design Changes.***

(A) The architecture and general appearance of the completed project are compatible with the neighborhood; and



(B) The completed project will neither be detrimental to the orderly and harmonious development of the city nor impair the desirability of investment or occupation in the neighborhood; and

(C) The chief planner has been guided by and has made reference to applicable provisions of the architectural review guidelines in making its determinations on single-family residences.

(D) Additional Findings for Exterior Alterations to Structures on the Historic Resources Inventory (HRI).

(i) The exterior alteration of any structure on the historic resources inventory is consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings; and

(ii) The exterior alteration of any structure on the historic resources inventory complies with Appendices I through IV of the Pacific Grove Architectural Review Guidelines.

(3) Additional Finding for Administrative Sign Permits. The proposed sign effectively conveys the business identity to the public and possesses pleasing elements of design that protect and enhance the architectural character and harmony of the buildings and neighborhood in which it is located.

(4) Additional Findings for Administrative Use Permits and Variances.

(A) The findings in PGMC 23.70.080(a)(4) shall apply to administrative use permits;

(B) Additional Finding for Administrative Use Permits for Fences, Deer Fences, and Garden Structures. The proposed fencing, and/or garden structure, will be in keeping with the neighborhood and will not obstruct views, air or light from the adjoining public street(s) without there being unique or exceptional circumstances of the property to warrant it; and

(C) The findings in PGMC 23.70.080(b)(4) shall apply to administrative variances.

(f) Effective Date of Decision. The decision shall become effective only when:

(1) The 10-day request for hearing period has expired, or the appeal period following a hearing authority decision has expired or, if appealed further or called up, after final action by the appeal authority in accordance with Chapter 23.74 PGMC (Appeals and Call-Ups); and

(2) All necessary prior approvals have been obtained.

SECTION 4. Existing Municipal Code Section 23.86.030 of Chapter 23.86, entitled "Public Meeting and Hearing Procedures," shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in bold, italic text (***bold, italic text***), as follows:

**23.86.030 Notice of administrative decision procedure.**

Notice of an administrative decision to approve a community development permit shall be given as follows:

(a) Contents of Notice. The contents of a notice of administrative decision shall be as provided in PGMC 23.86.020(a).

(b) Method of Notice Distribution. A notice of administrative decision shall be given as follows:

(1) Mailing.

(A) Mailed notice for administrative use permits, administrative use permit amendments, administrative variances, and administrative variance amendments shall be provided to:

(i) Owners of all property located within a 300-foot radius of the exterior boundaries of the subject lot. The names and addresses used for such notice shall be those appearing on the equalized county assessment roll, as updated from time to time; and

(ii) Any person who has filed a written request for notice with the department and has paid the required fee for the notice.

(B) Mailed notice for administrative architectural permits, architectural design changes, lot mergers, and administrative sign approvals, *and permitting of undocumented dwelling units*, shall be provided to:

(i) Owners of all property abutting the exterior boundaries of the subject lot. The names and addresses used for such notice shall be those appearing on the equalized county assessment roll, as updated from time to time; and

(ii) Any person who has filed a written request for notice with the department and has paid the required fee for the notice.

(2) Posting. The department shall conspicuously post notice on the subject lot in a location that can be viewed from the nearest street. If the subject lot is a through lot, a notice shall be conspicuously posted adjacent to each street frontage in a location that can be viewed from the street.

(3) Timeline. The notice shall be mailed and posted no later than 15 days following the submittal of a complete application to the department and at least 10 days before an action by the chief planner to approve a community development permit.

(4) Duration of Posting. The notice shall be continuously posted from the date required by subsection (b)(3) of this section, until the effective date of the chief planner's decision to approve, or approve with conditions, the community development permit.

(5) Request for Hearing. If a written request is received by the department within the 10-day noticing period before final approval of the community development permit, a public hearing will be held by the hearing authority, pursuant to the noticing requirements of PGMC 23.86.020 if it pertains to an administrative use permit or variance. Noticing of such hearings for all other staff approval permits shall be carried out pursuant to PGMC 23.86.040.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall take effect on the 30th day following its passage and adoption.



PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE  
THIS 6<sup>th</sup> day of March 2013, by the following vote:

AYES: Mayor Kampe & Councilmembers Cohen, Cuneo, Fischer, Huitt, Lucius  
& Miller

NOES: None

ABSENT: None


APPROVED:

  
BILL KAMPE, Mayor

ATTEST:

  
DAVID CONCEPCION, City Clerk

APPROVED AS TO FORM:

  
DAVID C. LAREDO, City Attorney



# PERMIT PROCESS FOR UNDOCUMENTED DWELLING UNITS

Information Bulletin No. 31

On March 6, 2013, the Pacific Grove City Council adopted a new permitting process for undocumented dwelling units on residential properties. It is in response to the City's concern with the plight of unsuspecting property owners that have purchased property with one or more preexisting secondary dwelling units on-site only to discover later that the units are unpermitted. An important objective of this effort is to encourage residential property owners to step forward and bring their undocumented units into consistency with health and safety requirements.

The process includes 1) Planning staff review to verify that the dwelling unit was created prior to 1987 (effective date of the State Real Estate Disclosure Law) and prior to the current owner's purchase of the property, and 2) a Zoning Administrator hearing will be scheduled and noticed as a public meeting, and 3) a health and life safety inspection by the City's Building Official to verify that the undocumented dwelling unit is safe to occupy,

For owners who purchased their property after 1987 or otherwise do not qualify for the undocumented unit permit process, the City's Second Unit Ordinance (Zoning Code Chapter 23.80) is another option for permitting a secondary dwelling unit on residential property.



## SPECIFIC PROVISIONS OF THE PERMIT PROCESS

The permit process applies to homeowners within any residential zone, except the R-1-B-4 and M-H Districts, who have one or more preexisting secondary dwelling units (including kitchen facilities) on their property that are undocumented through no fault of their own. Such units *may* be permitted based on their location, size and meeting the criteria outlined here:

- The applicant submits to the Community and Economic Development Department an application for planning staff, with the following evidence and documentation:
  - a) Evidence that the undocumented dwelling unit (including kitchen facilities) existed prior to January 1, 1987 (when the State Real Estate Disclosure Law went into effect), to include one or more of the following:
    - (1) Tax records that show income from the unit prior to that date.
    - (2) Monterey County Assessor's property tax information recognizing the unit prior to that date.



- Agenda No. 11C Attachment 3  
Page 18 of 18
- (3) Utility bills prior to that date if there were separate meters.
  - (4) Personal references from tenants or neighbors verifying occupancy of the unit prior to that date.
  - (5) Property sales information prior to that date that notes the separate unit.
  - (6) Other substantial evidence that similarly documents the existence of the unit prior to that date.

b) Evidence that the unit (including kitchen facilities) existed prior to the current owner purchasing the property, to include the evidence in 4.a above, plus one of the following:

- (1) Recorded deed demonstrating the date of purchase by the current owner.
  - (2) Other substantial evidence that similarly documents the date of purchase by the current owner.
- For undocumented units created after March 1, 1985, the owner obtains verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits.
  - Planning staff will review the application for completeness with the CEDD Director. Once deemed complete, staff will set a Zoning Administrator Hearing and post notice on-site as well as mail notice for all owners of property abutting the exterior boundaries of the subject lot.
  - The Zoning Administrator is the deciding body.
  - There is a 10 day appeal period of the ZA's decision. An appeal of the ZA's decision will be heard before the Planning Commission. If an appeal is not requested, the ZA decision is final at the end of the 10 day period.
  - The applicant must request an inspection of the undocumented unit by the City's Building Official within 30 days of approval to verify that there are no health and life safety conditions that render the unit unsafe, and the owner corrects any unsafe conditions identified.
  - The applicant must obtain the final Building Inspection Record, including inspection sign-off of any corrections required within 90 days of approval.

Please note that the conditions placed on secondary dwelling units under the City's Second Unit Ordinance (Zoning Code Chapter 23.80) do not apply to undocumented units permitted through the process described above.

**For more information, please contact the Pacific Grove Community and Economic Development Department, at (831)648-3183.**

09/11/2009 16:33 FAX 8316241651

SOTHEBYS INTERNATIONAL

City of Pacific Grove  
Community Development Department  
300 Forest Avenue  
Pacific Grove, CA 93950  
(831) 648-3190

Report Filing Fee: \$110.00  
Long Range Planning Fee (15%): \$16.50  
Total Fee: \$126.50

Account No. 01-4401

Accepted for submittal by:

Cyameloto  
(CDD Staff person)

CITY OF PACIFIC GROVE  
RESIDENTIAL ZONING RECORDS REPORT

The undersigned hereby applies for a report pursuant to Chapter 23.78 of the Pacific Grove Municipal Code. Please allow a minimum of ten working days for completion of the report from the date the application and fee are submitted to the Community Development Department. APN, Lot, Block and Tract information must be completed prior to submission.

Buyer or Transferee:

Jacqueline Trees  
Name(s)  
1112 Montana Ave #238  
Address  
Santa Monica Ca 90403  
City State Zip

Dated Submitted: 8/11/09

Seller or Transferor:

Rafaela Gutierrez  
Name(s)  
5248 Cartwright Ave. Apt 2  
Address  
North Hollywood, CA 91601  
City State Zip

By (X) Deane E. Ramoni  
Signature ☐ Owner ☒ Agent

PROPERTY BEING SOLD OR TRANSFERRED:

ADDRESS: 210 - 17 Mile Dr.

ASSESSOR'S  
PARCEL NO. 006-351-015

LOT NO. \_\_\_\_\_ BLOCK NO. \_\_\_\_\_ TRACT: \_\_\_\_\_

Completed report will be:

☒ Picked up: Bratty and Bluhm R.E.  
Deane Ramoni  
Name of person to notify  
917-6080  
Daytime telephone number

9/2/09 8:32 A.m  
Date notified Time notified

e-mail (for notification purposes only)

☐ Mailed to:

1/1  
Date mailed

Name \_\_\_\_\_

Street Address or Post Office Box Number \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Revised 10/03/08

RECEIVED

AUG 11 2009

COMMUNITY DEV. DEPT.

02 081109 08/11/2009 4 CDD-RES E1  
CHECK NUMBER #  
RECEIPT NUMBER 102000051715  
F:\Administrative\Forms\Misc.

## BUYER'S ACKNOWLEDGEMENT STATEMENT

(ive). Jacqueline Y. Trees

Acknowledge receipt of the following documents:

- 1 Residential Zoning Records Report
- 2 Residential Property Exterior Inspection
- 3 Smoke Detector Regulations and Smoke Detector Compliance Statement
- 4 Sewer Cleanout and Housetrap Regulations
- 5 Tree Regulations
- 6 Information regarding starting a business and operation of hotels, motels, apartment houses, and other rental units
- 7 Monterey Peninsula Water Management District Water Conservation Certification form

Dated: 09/10/09

[Signature]  
Signature of Buyer

\_\_\_\_\_  
Signature of Buyer



Previous • Next • 5 of 12 Checked 0 All • None • Page Agent 1 Line display Display Agent Full Criteria Map Results at 1 per page



## Report Listing



MLS #: ML80933885

Beds:  
Baths (F/P): 3 (3/0)  
Apprx. Bldg: 2,972 SqFt  
Apprx Lot: 6,850 SqFt  
Apprx Acr: 0.16 (Other)  
Age/Yr Blt: 61/1948  
Parcel#: 006-351-015  
DOM: 26  
LA: Deane E. Ramoni  
LA Ph: (831) 917-6080  
SA: Sam Piffero  
Walk Score: [Get Homesnap Pro](#)

1 / 5

**210 17 MILE Drive , Pacific Grove 93950**

County: Monterey  
Area: 127 - Asilomar/Grove Acre/Crocker  
Class: Res. Single Family / Detached  
Land Use:  
Comm: 3%  
L.Type/Service: Exclusive Right to Sell,  
Special Info: Not Applicable  
Fin Terms: Terms - Cash or Conventional  
Possession: COE  
Public: Classic Pacific Grove home plus two income units. This well maintained multi-family triplex offers many usage possibilities. Zoned R-4 the main house 1234 sq.ft. with 2+bedrooms or office and 1 bath has hardwood floors, Carmel stone fireplace and country kitchen. The units in back are spacious including separate laundry room and bonus workshop in excess of 1000 sq.ft. Close to town & beach.

Status: **Sold**  
Orig Price: \$950,000  
List Price: **\$950,000**  
Sale Price: **\$865,000**  
\$/SqFt: \$291.05

Dates:  
Original: 07/14/2009  
List: 07/14/2009  
Sale: 08/09/2009  
COE: 10/02/2009  
Expires: 10/07/2009  
Off Mkt: 54

Zoning: R4  
City Limit: Yes  
Incorp: Yes

Private: All units are vacant. Lok box on front door of main house. 4 keys - the units in back are "B" and "C" and the "Studio" key also opens the laundry room.

**Showing Information**

Occupied By: Vacant  
Show Contact:  
Phone:  
Instructions: Lockbox - Supra, Go Directly  
**Map**  
X Street: Lighthouse Ave.  
Directions:

**Showing & Location**

Owner: GUTIERREZ FAMILY TRUST  
Show type: Gt.Code:  
Add Instruct:  
**School**  
Elem: / Pacific Grove Unified  
Middle: / Pacific Grove Unified  
High: / Pacific Grove Unified

**# offers:**

Buyer Finance: Terms - Seller Finance 1st

**Closing Details**

Sold Remarks:  
Concession: LOE: 54

**Features**

Accessibility:  
Bath Features: Stall Shower - 2+, Tubs - 2+  
Communication  
Construct Type  
Cooling: None  
Dining Rm: Dining "L", In Living Room  
Energy Sav: Insulation - Unknown, Low Flow Shower(s), Low Flow Toilet(s)  
Ext. Amenities: Patio(s), Fenced

Kitchen: Microwave (s), Hookups - Gas, Cooktop, Oven - Built-In, Ovens - 2+, Refrigerators - 2+  
Laundry: In Garage, Dryer, Washer, Hookup - Gas Dryer

Family Room: No Separate Family Room, No Family Room  
Fence:  
Fireplace: # / Living Room, Wood Burning, Yes

Lot Desc: Grade - Level  
Other Rooms: Den/Study/Office, Guest Quarters, Attic, Separate Unit/ Apartment, Storage, Utility Room, Workshop  
Pool: No  
Pool Features: Pool - No

Flooring: Carpet - Wall to Wall, Hardwood

Prop Condition:  
Roof: Composition  
Security:  
Soil Condition:  
Stories: 2  
Style: Traditional  
View: Local/Neighborhood

Foundation: Concrete Perimeter  
Heating: Wall Furnace(s), Forced Air  
Horse: No  
Interior: Window Covering(s)

**Garage/Parking**

Garage:  
Carport:  
Open Parking:  
Features: Off-Street Parking  
Builder Nm:  
Constr. Status:  
ETA Complet.:  
Name:  
# of Units:

**Structure(s)**

Type:  
2nd Structure:  
2nd Strct. Desc:

Model Name:  
Price min:  
Price max:  
HOA Name:  
HOA Phone:



## CITY OF PACIFIC GROVE

### Community Development Department – Planning Division

300 Forest Avenue, Pacific Grove, CA 93950

T: 831.648.3183 • F: 831.648.3184 • www.ci.pg.ca.us/cdd

### UNDOCUMENTED UNIT PERMIT 15-671 FOR A PROPERTY LOCATED AT 210 17 MILE DRIVE

Anthony Davi applied on October 27, 2015 to Permit an Undocumented Unit for a property located at 210 17 Mile Drive. Per PGMC 23.64.360

#### FACTS

1. The subject site is located at 210 17 Mile Drive Pacific Grove, CA 93950 APN 006-351-015
2. The subject site has a designation of High Den 29.0 Du/ac on the adopted City of Pacific Grove General Plan Land Use Map.
3. The project site is located in the R-4 zoning district.
4. Multi-family units are permitted with a Use Permit per PGMC section 23.28.020(c).
5. Per section 23.64.190 parking requirements for the single-family residence is two covered, for the two-bedroom additional dwelling unit one covered and one uncovered and for the two one bedroom units one and a half off street parking shall be provided.
6. The subject site is approximately 8,400 square feet.
7. Architectural Permit No. 49 dated December 9, 1964 allowed the conversion of the garage in to a third unit creating the exiting duplex.
8. The subject property received a Variance No. 78-378 in 1978 to permit a reduction in a required side and rear setbacks to allow the applicant to construct a workshop.
9. The subject site is developed with a 1,230 sf single family residence, a 1,830 sf duplex and an approximate 324 sf unpermitted unit.
10. On October 22, 1987 a code violation was opened because of the unpermitted unit.
11. An inspection dated September 12, 2014 confirmed the code violation had not been resolved. Compliance was required by January 12, 2015
12. Monterey Peninsula Water Management (MPWMD) does not recognize the kitchen and bathroom in the unpermitted unit.
13. This project has been determined to be exempt under CEQA Guidelines Class 3 (b)

#### FINDINGS

1. The proposed approval as conditioned conforms to the applicable provisions of the General Plan, the Local Coastal Plan, and any applicable specific plan and these regulations;
2. The proposed approval is located on a legally created lot;
3. The subject proposal will not be in compliance with all laws, regulations and rules pertaining to setback, parking and trash facilities and any other provisions of this code per section 23.70.040.c;
4. The subject property will not meet the required three uncovered and four covered off street parking spaces for the R-4 zone with 4 units per section 23.64.190(a)(b);
5. The subject property will not meet the required trash enclosure requirements for the R-4 zone with 4 units per section 23.26.080;
6. The subject property exceeds the 60% site coverage requirement for the R-4 zone with a site coverage of 78% ;

#### PERMIT

Permit of an Undocumented Unit

Per Pacific Grove Municipal Code 23.64.360

**DENIED BY THE ZONING ADMINISTRATOR OF THE CITY OF PACIFIC GROVE** this 14th day of January, 2016:

DENIED:

MARK BRODEUR, ZONING ADMINISTRATOR



RECEIVED  
CITY MANAGER'S OFFICE  
LAW OFFICE OF  
ANTHONY DAVI

2016 FEB -2 A 11:01

**Submission of Applicant Jacqueline Trees for Planning Commission Hearing  
for Permitting of Undocumented Unit Application 15-671  
February 4, 2016 at 6:00PM**

This agenda item is purely an issue of law. This application is filed under City Code §23.64.360, which was enacted on March 6, 2013 and came into effect April 5, 2013. It is an exemptive code section, which means it is a “grandfathering” provision. Its purpose is to exempt the qualified applicant from the permitting and zoning requirements that would otherwise apply. The code section clearly describes the requirements for the permitting of undocumented dwelling units. The Staff Report recommends denial of this application based on a misinterpretation of section 23.70.030. As a result, the Staff Report fails to address the facts as they relate to code section 23.64.360. As a matter of law and according to the facts presented, the City has no legal basis to deny this Application.

Staff first went astray because it misinterprets section 23.70.030 as requiring this Application to meet the requirements of all “laws, regulations and rules pertaining to uses and setbacks” (see Staff Agenda Report at page 2) . That is not what code section 23.70.030 states (see Code at attached Ordinance 13-005, page 9). As written, code section 23.70.030 does not have an effect on code section 23.64.360 as to the qualifying criteria of undocumented dwelling units. In other words, it does not add present day permitting and zoning requirements back into a code section enacted to exempt the qualified applicant from those same permitting and zoning requirements. To do so would be nonsensical and defeat the grandfathering purpose of code section 23.64.360. Section 23.70.030 merely includes section 23.64.360 as one of several processes that qualify for ministerial staff approval. As explained further below, section 23.64.360 was enacted to help fulfill the City’s Housing Element and General Plan. Section 23.70.030 cannot lawfully be interpreted to defeat that purpose.

As a result of Staff’s misinterpretation of the law, the Staff report analyzes the Application as if it were for a new secondary dwelling unit. This is contrary to code section 23.64.360 as written and the intent behind its creation. Subsection 23.64.360(e) specifically exempts the second unit permitting and zoning conditions which are applied to new second-dwelling-unit applications by chapter 23.80. It is an irreconcilable interpretation to find that at subsection (e) this code section exempts current second unit permitting and zoning requirements while somehow section 23.70.030 adds them back. Again, this is a grandfathering provision. Its entire purpose is to make legal what is an unpermitted and non-conforming unit.

**Code §23.64.360 is clear and should be determinative.**

Section 23.64.360 lays out a four step path to qualify for ministerial staff approval.

**Subsection (a)**

Under subsection (a), an applicant must prove the existence of the unit prior to January 1, 1987. May 28, 2015, Applicant submitted Monterey County Tax Assessor records proving the existence of the subject unit as of April 25, 1979, with its kitchen and water fixtures. That evidence is undisputed. (see Applicant’s Exhibit 1C in Staff report)



**Subsection (b)**

Subsection (b) requires an applicant prove they purchased the property after the unit was created. The Applicant has provided her grant deed showing she purchased in 2009. (see Applicant's Oct. 2, 2009 grant deed in Staff Report)

**Subsection (c)**

Subsection (c) states, "before applying for permitting" the owner shall also have an inspection to verify there are no "health and life safety conditions that render the unit unsafe and correct any unsafe conditions required by the building official". In accordance with this Subsection, Applicant requested an inspection after fulfilling Subsections (a) and (b) above. Contrary to the code, Staff required this Application be filed before Staff would provide the building inspection. Staff's form for section 23.64.360 applications reflects that staff does not follow the Code. (Form copy attached) On or about November 30, 2015, Ms. Schlagheck inspected the unit. From her email it appears she was not instructed to limit her inspection to health and life safety conditions. (See Ms. Schlagheck's email dated November 30, 2015, attached to Staff's report) Nevertheless, Ms. Schlagheck lists three conditions that could be considered health and life safety issues: 1) Install GFCI protected outlets for the kitchen countertops, 2) Remove the wall heater from sleeping room, and 3) Install a carbon monoxide detector. After this report was generated, Staff set this matter for a Zoning Administrator Hearing, again contrary to the code's direction. Instead, subsections (c) (1) and (2) call for the Applicant to be provided an opportunity to correct the health and life safety issues and then obtain sign-off by the building official. The City did not follow this process. Next, subsection (c) 3 requires verification of water credits if the dwelling unit was created after March 1, 1985. Applicant's unit has existed as a dwelling unit as of at least April 25, 1979, it is exempt from this requirement.

**Subsection (d)**

Subsection (d) is very telling of the intent of this code section. It provides, "Upon completion of the above steps, the owner shall submit to the community development department a short application for staff approval, with the above evidence and documentation." This subsection amounts to a definition of a ministerial staff approval process. The application is supposed to be required only after all other qualifications are met so that it can be "short" and for the sole purpose of "staff approval". When an applicant fulfills step (d), Staff has no discretion and must approve the application.

**This Ordinance is unambiguous and its Findings affirm Applicant's position.**

This code section was effective April 5, 2013. On October 18, 2012, Ms. Terri Schaeffer authored an agenda report to the Planning Commission. The report states that at the October 4, 2012 commission meeting a citizen handed out a description of the City of Monterey approach showing how Monterey addresses unpermitted units and asked that Pacific Grove adopt a similar ordinance. In response, the Commission directed staff to draft a new ordinance for its consideration.

This code section was adopted by Ordinance 13-005 (Ordinance attached herewith). The Findings look at the 2011 Housing Element. The ordinance quotes the Housing Element, stating that a key goal of the City is to "Provide diverse, high quality housing choices...." The ordinance quotes Program 2.3.12, which requires the City to "Evaluate the feasibility of reinstating the Illegal Housing Unit Registration Program if the units meet health and safety inspection and documentation requirements".

The Ordinance Findings state:

Commission members were concerned with the plight of unsuspecting property owners that have purchased property with one or more preexisting secondary dwelling units on-site only to discover later that the units are unpermitted. The Commission directed staff to develop language that would enable undocumented units to be legalized if there are no health and life safety conditions that render the units unsafe, and if the units pre-date the current property owner's purchase of the property. [emphasis added]

The legislative intent of this code section was clearly stated with its enactment. In fact, "Exceptions" is part of the Chapter title in which it was placed, again because it is a grandfathering provision.

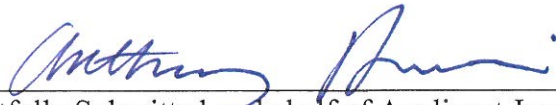
Because this code section was at least partially inspired by Monterey's process, it is helpful to compare it to Monterey's Code. Monterey applies its unpermitted dwelling code just as it is written on its face, as a grandfathering provision. If an applicant shows a unit existed prior to the grandfathering date, staff requires health and life safety issues be corrected. Then the application is approved administratively, without a hearing. Monterey does not require the applicant to meet permitting and zoning use requirements because the purpose of the grandfathering code section is to exempt applicants from permitting and zoning requirements, because it would defeat the purpose of the code section.

**It is importance that the City follow the Code.**

Code amendments such as this are the primary tool used by the City to carry out the goals, objectives, and policies of the General Plan, Housing Element, and Local Coastal Program. Furthermore, this code section has been put through the legislative process, a key part of government checks and balances. Due process and equal protection under the U. S. Constitution's Fourteenth Amendment require the City to apply this code section as it is written, both in process and substance.

**Conclusion**

Code section 23.64.360 is not ambiguous. Staff's misinterpretation of the law as it applies to the facts of this Application defeats the purpose of this code section. The legislative history, the legislative findings, and the code section's language itself make clear that this is a grandfathering provision. The purpose of code section 23.64.360 is to make legal what are otherwise illegal, unpermitted, and nonconforming units. Applicant has met the evidentiary requirements and must be allowed to correct the health and life safety issues to obtain building official sign off. Once that is done, staff must approve this application.



Respectfully Submitted on behalf of Applicant Jacqueline Trees by  
Attorney, Anthony Davi (Application 15-671)

February 1, 2016



## ORDINANCE NO. 13 - 005

### **AN ORDINANCE OF THE CITY OF PACIFIC GROVE AMENDING CHAPTERS 23.64, 23.70, AND 23.86 OF THE PACIFIC GROVE MUNICIPAL CODE TO PROVIDE, IN ADDITION TO THE SECOND UNIT ORDINANCE, AN OPTION FOR PROPERTY OWNERS THAT HAVE PURCHASED A RESIDENTIAL PROPERTY PRIOR TO 1987 WITH ONE OR MORE UNDOCUMENTED SECONDARY DWELLING UNITS TO PERMIT SUCH UNITS**

#### **FINDINGS**

1. The Pacific Grove City Council is concerned about the existence of dwelling units within the City that are not in compliance with the City's building, zoning and health and safety codes and/or the City's permitting requirements as these units could compromise the public peace, health and safety and quality of life for Pacific Grove residents. The Council is further concerned about the existence of dwelling units within the City which have unpermitted water fixtures.

2. California Health and Safety Code Section 17920.3 defines substandard housing to include the existence of conditions to an extent that endanger the life, limb, health, property, safety, or welfare of the public or the occupants. Section 17920.3 specifies such conditions to include and arise from inadequate sanitation, structural hazards, nuisance, wiring, plumbing, mechanical equipment, faulty weather protection, construction materials, and buildings or portions thereof occupied for living, sleeping, cooking or dining purposes that were not designed or intended to be used for those occupancies.

3. Prior City efforts to address this issue resulted in the City Council's adoption of the Pacific Grove Municipal Code (PGMC) Chapter 23.80, Second Units, which was championed as a way to develop affordable housing units in a community that was almost built to capacity.

4. On July 16, 2008, the City Council approved City Council Policy No. 600-6, which directs staff to actively pursue code violation complaints of substandard dwelling units to enforce its building and zoning code, and to bring substandard dwelling units into compliance.

5. In 2011, in accord with state law, the City Council adopted the updated Housing Element to cover the 2007-2014 housing cycle. It was certified by the California Department of Housing and Community Development in December 2011. The Housing Element is one of the seven state-mandated elements of the General Plan, which is the comprehensive, long-range plan for the physical development of the city. One of the key goals of the Housing Element is to *"Provide diverse, high quality housing choices appropriate for residents at all levels of income."* A number of policies and programs implement this goal, including Program 2.3.12, which requires the City to *"Evaluate the feasibility of reinstating the Illegal Housing Unit Registration Program if the units meet health and safety inspection and documentation requirements. Unit*



*registration should require a deed restriction stipulating that the unit is affordable to very low-income households in perpetuity.*" The City found that a program to permit undocumented units built prior to the owner purchasing the property and prior to the 1987 State Real Estate Disclosure Law going into effect would not appreciably affect the City's ability to implement Program 2.3.12.

6. In response to a citizen request, on November 8, 2012, the Planning Commission took up the issue of undocumented units within the City. The Commission received a background report on how the City has addressed the issue of undocumented dwelling units over time and current City policy. Commission members expressed concern with the plight of unsuspecting property owners that have purchased property with one or more preexisting secondary dwelling units on-site only to discover later that the units are unpermitted. The Commission directed staff to develop language that would enable undocumented units to be legalized if there are no health and life safety conditions that render the units unsafe, if the units pre-date the current property owner's purchase of the property, and if the property purchase occurred prior to the City's Residential Zoning Records Report (RZRR) requirement going into effect in 1986.

7. On December 6, 2012, the Planning Commission held a subsequent discussion and fine-tuned the proposal, opting to use the effective date of the State Real Estate Disclosure Law (January 1, 1987) as the cut-off date for creation of undocumented units, due to concerns that some property sellers may not have complied with the RZRR requirement at time of sale or transfer during the early years of RZRR implementation.

8. The Planning Commission held a public hearing on February 7, 2013, received public testimony, discussed the draft ordinance in detail, and voted 6-0 to forward a recommendation of approval to the City Council.

9. Notice of the Planning Commission public hearing was published in the Monterey County Herald on January 28, 2013. Notice of the City Council public hearing on the second reading of the draft ordinance was published in the Monterey County Herald on \_\_\_\_\_.

10. This ordinance amends PGMC Chapter 23.64, entitled "General Provisions and Exceptions," Chapter 23.70, entitled "Community Development Permit Review Authorities and Procedures," and Chapter 23.86, entitled "Public Meeting and Hearing Procedures," of the Municipal Code, in order to add a process for permitting undocumented dwelling units.

11. These amendments are enacted based on the authority vested in the City of Pacific Grove by the State of California, including but not limited to: the State Constitution; the Planning and Zoning Law (Government Code Sections 65000 et seq.); and the California Coastal Act (Public Resources Code Sections 30000 et seq.).

12. These amendments are a primary tool used by the City to carry out the goals, objectives, and policies of the Pacific Grove General Plan and Local Coastal Program (LCP). The Pacific Grove City Council intends that these amendments be consistent with

the City's General Plan and LCP, and that any land use approved in compliance with these amendments will also be consistent with the General Plan and LCP.

13. These amendments have been reviewed in accordance with the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 et seq., and Chapter 23.77 of the Pacific Grove Municipal Code. Based on this review, it was determined that the proposed amendment would not result in significant adverse impacts to the environment. A Proposed Negative Declaration was prepared and a Notice of Availability (NOA) / Notice of Intent (NOI) to Adopt a Negative Declaration was issued on December 28, 2012 and recirculated on January 25, 2013.

14. This ordinance shall incorporate the Council's adoption and approval of the Recirculated Negative Declaration (ND) attached to the agenda report. Council has considered the ND in accord with the CEQA, CEQA Guideline Section 15074(b), together with any comments received during the public review process. Council adoption of the ND is based upon its determination, on the basis of the whole record before it (including the Initial Study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment. The ND reflects the City Council's independent judgment and analyses.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:**

SECTION 1. The foregoing findings are adopted and integrated into this ordinance as though set forth in full.

SECTION 2. Existing Municipal Code Chapter 23.64, entitled "General Provisions and Exceptions" shall be amended by the addition of all text shown in bold, italic text (***bold, italic text***), as follows:

Sections:

- 23.64.010 Application of chapter.
- 23.64.020 Use permit – Circus, open-air theater, racetrack.
- 23.64.030 Use permit – Dancehall, roadhouse, nightclub, etc.
- 23.64.035 Coin-operated amusement devices.
- 23.64.040 Accessory uses in C, I, U districts.
- 23.64.050 Use permit – Parking lots – R district.
- 23.64.055 Use permit – Downtown public gathering area.
- 23.64.060 Use permit – Public buildings, parks, etc.
- 23.64.065 Use permit – Group quarters.
- 23.64.070 Use permit – Earth, mineral removal.
- 23.64.080 Commercial uses – R-1, R-2 districts.
- 23.64.090 Commercial uses – R-3 district.
- 23.64.110 Family daycare homes.
- 23.64.115 Food service establishments.
- 23.64.119 Garden structures.



- 23.64.120 Height limits – Chimneys, flagpoles, towers, etc.
- 23.64.130 Height limits – Fences, hedges, or other visual obstructions.
- 23.64.135 Prohibited fences.
- 23.64.140 Building site area.
- 23.64.145 Separate building site – R-1 district.
- 23.64.147 Separate building site – R-3-P.G.R. district.
- 23.64.150 Yards – Projection of cornices, eaves, etc.
- 23.64.160 Yards – Projection of open porches, stairways, etc.
- 23.64.170 Yards – Measured from official plan line.
- 23.64.180 Accessory buildings and structures.
- 23.64.185 Accessory use – Storage of portable or movable objects.
- 23.64.190 Off-street parking, storage.
- 23.64.195 Landscaping of front and side yards.
- 23.64.240 Parking or placement of large vehicles or structures in certain areas of residential premises – Prohibited.
- 23.64.290 Liquor sale provisions.
- 23.64.300 Application for abandonment or purchase of city property.
- 23.64.310 Swimming pools.
- 23.64.320 Unlawful sale of subdivided contiguous lots.
- 23.64.340 Consistency with county hazardous waste management plan.
- 23.64.350 Prohibition of transient use of residential property for remuneration.
- 23.64.360 Permitting of Undocumented Dwelling Units**

**23.64.360 Permitting of Undocumented Dwelling Units**

*When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H Districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.*

*In the absence of a City permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the State Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.*

*(a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987 shall include one or more of the following:*

- (1) Tax records that show income from the unit(s) prior to that date.*
- (2) Monterey County Assessor's property tax information recognizing the unit(s) prior to that date.*
- (3) Utility bills prior to that date if there were separate meters.*
- (4) Personal references from tenants or neighbors verifying occupancy of the unit(s) prior to that date.*
- (5) Property sales information prior to that date that notes the separate unit(s).*



*(6) Other substantial evidence that similarly documents the existence of the unit(s) prior to that date.*

*(b) Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in (a) above, plus one of the following:*

*(1) Recorded deed demonstrating the date of purchase by the current owner.*

*(2) Other substantial evidence that similarly documents the date of purchase by the current owner.*

*(c) Before applying for permitting of an undocumented unit, the owner shall also:*

*(1) Have an inspection of the undocumented unit(s) by the Building Official to verify that there are no health and life safety conditions that render the unit(s) unsafe, and correct any unsafe conditions required by the Building Official.*

*(2) Obtain the final Building Inspection Record, including inspection sign-off of any corrections required.*

*(3) For undocumented units created after March 1, 1985, obtain verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits.*

*(d) Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation.*

*(e) Conditions placed on Second Units pursuant to PGMC Chapter 23.80 shall not apply to undocumented units permitted through this process.*

SECTION 3. Existing Municipal Code Sections 23.70.012 and 23.70.030 of Chapter 23.70, entitled "Community Development Permit Review Authorities and Procedures," shall be amended by the deletion of all text shown in ~~strikeout text~~ and by the addition of all text shown in ***bold, italic text***, as follows:

**23.70.012 Types of community development permits and related review authorities.**

Table 23.70.012-1, entitled "Types of Review, Applications, and Roles of Review Authorities," identifies the city official or body responsible for reviewing and making decisions on community development permit applications, legislative amendments, and other actions required by these regulations.

**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
ARB = Architectural Review Board, CC = City Council, HRC = Historic Resources Committee, HRI = Historic Resources Inventory, LCP = Local Coastal Program, PC = Planning Commission, PGMC = Pacific Grove Municipal Code Section, SPRC = Site Plan Review Committee, and ZA = Zoning Administrator.							
<b>Counter Review:</b> Recommended preliminary staff review of projects to determine compliance with zoning code, need for							

**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
further permit applications, or determination of which track below best suits the situation. (PGMC <u>23.70.018</u> )							
<b>Counter Review and Determination:</b> Required chief planner review of specific projects or land uses in order to verify compliance with zoning standards. (PGMC <u>23.70.020</u> )							
<b>Staff Approvals:</b> For timely approval of permits for the following projects and uses:							
Admin. architectural permit – not on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision		Appeal <sup>5</sup>			Appeal <sup>5</sup>
Admin. architectural permit – on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2,3</sup>			Hearing/ Decision		Appeal <sup>5</sup>	Appeal <sup>5</sup>
Architectural design change – not on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision		Appeal <sup>5</sup>			Appeal <sup>5</sup>
Architectural design change – on HRI (PGMC <u>23.70.030</u> )	Decision <sup>2,3</sup>			Hearing/ Decision		Appeal <sup>5</sup>	Appeal <sup>5</sup>
Lot merger (PGMC <u>23.70.030</u> , <u>24.04.030</u> )	Decision	Hearing/ Decision				Appeal <sup>5</sup>	Appeal <sup>5</sup>
Admin. sign permit (PGMC <u>23.70.030</u> )	Decision	Hearing/ Decision		Appeal <sup>5</sup>			Appeal <sup>5</sup>
Admin. use permit and admin. use permit amendments <sup>7</sup> (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision				Appeal <sup>5</sup>	Appeal <sup>5</sup>
Admin. variance and admin. variance amendments (PGMC <u>23.70.030</u> )	Decision <sup>2</sup>	Hearing/ Decision				Appeal <sup>5</sup>	Appeal <sup>5</sup>
<b>Permitting of Undocumented Dwelling Units (PGMC <u>23.70.030</u>)</b>	<b>Decision<sup>2</sup></b>	<b>Hearing/ Decision</b>				<b>Appeal<sup>5</sup></b>	<b>Appeal<sup>5</sup></b>
<b>Zoning Administrator:</b> For the following applications:							
Interpretations of permitted use lists (PGMC <u>23.70.040</u> , Chapter <u>23.82</u> PGMC)		Decision <sup>6</sup>				Appeal	Appeal



**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
Historic relocation permit – on-site (PGMC <a href="#">23.70.040</a> , <a href="#">23.76.100</a> )		Decision <sup>6</sup>				Appeal	Appeal
Parcel map (PGMC <a href="#">23.70.040</a> , Chapter <a href="#">24.08</a> PGMC)		Decision <sup>6</sup>				Appeal	Appeal
<b>Site Plan Review Committee:</b> For the following approvals:							
Lot line adjustment (PGMC <a href="#">23.70.050</a> , <a href="#">24.04.030</a> )			Decision			Appeal	Appeal
Site plan review (multifamily/ commercial/industrial projects only) (PGMC <a href="#">23.70.050</a> )			Review and Comment				
<b>Architectural Review Board:</b> For the following applications:							
Architectural permit for new construction, major alteration, or demolition/reconstruction – not on HRI (PGMC <a href="#">23.70.060</a> )				Decision		Appeal	Appeal
Architectural permit for major alteration – on HRI (PGMC <a href="#">23.70.060</a> )				Decision		Appeal	Appeal
Historic preservation permit (PGMC <a href="#">23.70.060</a> , <a href="#">23.76.060</a> )				Decision		Appeal	Appeal
Historic demolition permit (PGMC <a href="#">23.70.060</a> , <a href="#">23.76.090</a> )				Decision		Appeal	Appeal
Historic relocation permit – off-site (PGMC <a href="#">23.70.060</a> , <a href="#">23.76.100</a> )				Decision		Appeal	Appeal
Sign Permit (PGMC <a href="#">23.70.060</a> )				Decision		Appeal	Appeal
<b>Historic Resources Committee:</b> For the following applications:							
Historic determination (PGMC					Decision	Appeal	Appeal



**Table 23.70.012-1:  
Types of Review, Applications, and Roles of Review Authorities**

Roles of Review Authorities <sup>1</sup>							
Type of Permit Application	Chief Planner	ZA	SPRC	ARB	HRC	PC	CC
<u>23.70.070, 23.76.030</u> )							
Initial historic screening request (PGMC <u>23.70.070</u> )	Decision				Recommend		
<b>Planning Commission:</b> For the following applications:							
Use permit and use permit amendments (PGMC <u>23.70.080(a)</u> )						Decision	Appeal
Variance and variance amendments (PGMC <u>23.70.080(b)</u> )						Decision	Appeal
Tentative tract map (Chapter <u>24.12</u> PGMC)						Decision	Appeal
Final tract map (Chapter <u>24.16</u> PGMC)						Decision	Appeal
<b>Administrative and Amendments:</b> For legislative actions and code interpretations (other than interpretations for permitted use lists), the following applies:							
General plan amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
LCP amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
Zoning text amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
Zoning map amendments (Chapter <u>23.84</u> PGMC)						Recommend	Decision
Interpretations of Code (PGMC <u>23.04.040</u> )	Decision <sup>4</sup>					Appeal	Appeal

1. "Decision" means that the review authority makes the decision on the matter; "hearing" means that the review authority holds a hearing and renders a decision only if requested in response to a notice, in compliance with PGMC 23.70.030 (Staff approvals); "appeal" means that the review authority may

consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 23.74 PGM (Appeals and Call-Ups); “recommend” means that the review authority makes a recommendation to a higher decision-making body.

2. The chief planner may defer action and refer the item to the hearing authority for decision.
3. If an administrative architectural permit or an architectural design change is accompanied by a historic preservation permit, both applications shall be reviewed concurrently by the architectural review board.
4. The chief planner may defer action and refer the item to the first appeal authority for decision.
5. Appeal authority may review matter only if the hearing authority held a public hearing and rendered a decision.
6. The zoning administrator may defer action and refer the item to the first appeal authority for decision.
7. Administrative use permits are broken down into major and minor categories, to reflect the reduced staff time required and lower corresponding fee for projects in the minor category, pursuant to PGM 23.70.030(b)(7).

### **23.70.030 Staff approvals.**

(a) Purpose. This section establishes procedures and findings for the issuance of, and effective time periods for, staff-approved permits. No public hearings are held unless a request for a hearing is submitted or the chief planner refers it to the hearing authority. The intent of this section is to ensure that community development permits are in compliance with the general plan, local coastal program, and these regulations, and are issued quickly yet allow for public review.

(b) Applicability. As summarized in Table 23.70.012-1, the chief planner or designee is the decision-making authority for the following community development permits:

(1) Administrative Architectural Permits (on HRI, determined by the city to be eligible for the HRI, or 50 years of age or older with an undetermined historic status). In all residential zoning districts, administrative architectural permits may be granted for the following structures and the following alterations to buildings listed on the historic resources inventory (HRI), determined by the city to be eligible for the HRI, or to buildings that are 50 years of age or older and have an undetermined historic status:

(A) Outside of the coastal zone, an exterior modification to side and/or rear elevations, or an addition to side and/or rear elevations where the addition is less than 400 square feet or 10 percent of existing floor area, whichever is less, of a single-family home, duplex or triplex, if all of the following apply:

- (i) Does not enlarge or create a second story; and
- (ii) The chief planner has determined that it is consistent with the Secretary of the Interior’s standards for historic rehabilitation and the State Historic Building Code.

(B) Outside of the coastal zone, Category 1 detached accessory structures larger than 120 square feet, pursuant to Table 23.64.180.

(C) Both within and outside the coastal zone, deer fencing, not to exceed six feet, if within front, side, and rear yards, pursuant to PGM 23.64.130(d).

Exception: If accompanied by a historic preservation permit application, an administrative architectural permit shall be referred to the architectural review board to



hold a public hearing and to take action on both applications concurrently, pursuant to PGMC 23.70.060 (Architectural Review Board).

(2) Administrative Architectural Permits (not on HRI). Administrative architectural permits may be granted for the following structures and the following alterations to a building that has been determined by the city to be ineligible for the historic resources inventory, or is less than 50 years of age:

(A) In the R-1 zoning districts outside of the coastal zone, any exterior modifications or additions to a single-family home, duplex or triplex that are 25 percent or more of existing floor area and do not enlarge or create a second story, if the chief planner determines that the exterior modifications and additions are “visually significant” as viewed from the adjacent street(s);

(B) In the R-1 zoning districts outside of the coastal zone, any of the following modifications to a single-family home, duplex or triplex:

(i) Replacement of chimneys, siding, doors, porches, decks, or other exterior feature(s), if the replacement materials and design are determined by the chief planner to be “visually significant” as viewed from the adjacent street(s);

(ii) Replacement of windows (including change in window location of up to 12 inches from existing location), if the replacement materials meet the definition of “visually significant,” pursuant to the Window Guidelines, Appendix IV of the Pacific Grove Architectural Review Guidelines; and

(iii) Roof material change and/or roof pitch change, such that the change is determined by the chief planner to be “visually significant” as viewed from the adjacent street(s);

(C) In the R-2, R-3, and R-4 zoning districts, outside of the coastal zone, any of the following modifications or additions to a single-family home, duplex or triplex:

(i) Replacement of chimneys, siding, doors, porches, decks, or other exterior feature(s), if the replacement materials and design are either in-kind; or matching the existing or original materials and design, such that the change is determined by the chief planner to be “visually insignificant” as viewed from the adjacent street(s);

(ii) Replacement of windows (including change in window location of up to 12 inches from existing location), if the replacement materials are either in-kind, matching or are considered an upgrade of the existing or original materials, which would meet the definition of “visually insignificant,” pursuant to the Window Guidelines, Appendix IV of the Pacific Grove Architectural Review Guidelines;

(iii) Roof material change and/or roof pitch change, such that the change is determined by the chief planner to be “visually insignificant” as viewed from the adjacent street(s) or is considered appropriate to the architectural style of the structure;

(iv) Exterior modifications and additions that are 25 percent or more of existing floor area and do not enlarge or create a second story, and that the chief planner determines to be “visually insignificant” as viewed from the adjacent street(s); and



(v) Exterior modifications or an exterior addition, where the addition is less than 400 square feet or 10 percent of existing floor area, whichever is less, and where the alterations and/or addition is determined to be “visually significant” as viewed from the adjacent street(s) and does not enlarge or create a second story;

(D) Roof overhang, roofing material, and siding material modifications for any mobile home installed in other than the R-1-M-H district;

(E) Water heater or utility enclosure if the exterior material does not match the existing siding and the chief planner determines it is “visually significant” as viewed from the adjacent street(s);

(F) Water cisterns or rainwater collection equipment not meeting the provisions of PGMC 23.70.020(b)(6)(B);

(G) Outside of the coastal zone, Category 1 detached accessory structures larger than 120 square feet, pursuant to Table 23.64.180; and

(H) Within the coastal zone, deer fencing, not to exceed six feet, if within front, side, and rear yards, pursuant to PGMC 23.64.130(d).

(3) An administrative architectural permit shall also be required for projects located outside the coastal zone and listed in PGMC 23.70.020(b)(1), (3), (4), (5) or (6), that are accompanied by an administrative use permit or administrative variance. The two permits shall be processed concurrently, in accordance with this section. If located within the coastal zone, an architectural permit shall be required for projects listed under PGMC 23.70.020(b)(1)(A), (C) and (D), (b)(2)(F), and (b)(3)(A) and (C), pursuant to PGMC 23.70.060 (Architectural Review Board).

(4) Architectural Design Changes. Once an architectural permit, outside the coastal zone, or an administrative architectural permit has been approved, but before the associated building permit has been finalized, changes that modify the exterior elevations of the project shall be processed as an architectural design change; provided, that cumulative design changes to a prior architectural permit or administrative architectural permit shall not appreciably alter the originally approved design. This applies to properties either on the HRI or not on the HRI.

Exception: If accompanied by a historic preservation permit application, an administrative design change shall be referred to the architectural review board to hold a public hearing and to take action on both applications concurrently, pursuant to PGMC 23.70.060 (Architectural Review Board).

(5) Lot Mergers. Lot mergers, in accordance with this section and the procedures in PGMC 24.04.030 (Subdivision Standards).

(6) Administrative Sign Permit. An administrative sign permit may be granted for the following:

(A) A flat sign in the C-1, C-2, or I zones that has a sign area of 25 square feet or less, is attached to or is painted on a building so as not to project more than six inches from the building, and is the only permanent sign displayed on the premises; and

(B) New commercial signs or modifications to an existing sign that comply with an existing master sign program for the site.

(7) Administrative Use Permits. Administrative use permits and administrative use permit amendments may be granted for the following:

(A) Major Administrative Use Permits.

- (i) Detached or semi-detached rooms within the R-1 zoning districts;
- (ii) Averaging of side yards for interior sites within the R-1 and R-2 zoning districts, pursuant to PGMC 23.16.060(b)(1) and 23.20.070(b)(1);
- (iii) Accessory buildings and structures that are 120 square feet or less in area, pursuant to Table 23.64.180;
- (iv) Rooming houses, boarding houses, and professional uses within the R-4 zoning district;
- (v) Businesses requiring a use permit in the C-1 zoning district, where the business will occupy less than 1,500 square feet of floor space of the building containing the business and either:
  - a. Was completed prior to 1980 and is in an established off-street parking district, or
  - b. Has on-site parking spaces as prescribed by the planning commission to include the use involved;
- (vi) Gardening on vacant lots within the C-1 zoning district;
- (vii) Uses allowed with a use permit within the R-3-P.G.B. zoning district;
- (viii) Earth and mineral extraction for commercial purposes;
- (ix) Foster and day care homes under PGMC 23.64.110 (Family Daycare Homes);
- (x) Projection of open porches, stairways, etc., under PGMC 23.64.160 (Yards);
- (xi) Accessory storage of portable or movable objects under PGMC 23.64.185 (Accessory Use); and
- (xii) Extension, change, or restoration of a nonconforming use under Chapter 23.68 PGMC (Nonconforming Uses and Buildings).

(B) Minor Administrative Use Permits.

- (i) Structures, appurtenances, fences, deer fences, hedges, screen plantings, or other visual obstructions (other than allowed garden structures) in excess of height limits under PGMC 23.64.120 and 23.64.130 (Height Limits); and
- (ii) Garden structures exceeding the standards required by PGMC 23.64.119 (Garden Structures).

(8) Administrative Variances. Administrative variances and administrative variance amendments may be granted for the following:

- (A) Reductions in required yards or setbacks that are 20 percent or less of the required distance;
- (B) Increases in allowable building site coverage of five percent or less for additions to an existing structure;
- (C) The occupancy of any part of a required side or rear yard by a driveway or parking pad; and



(D) The elimination of a required covered parking space in the R-1 zoning districts where the absence of the space is a legal nonconforming condition of an existing single-family use and where a parking space is not physically possible.

***(9) Permitting of Undocumented Dwelling Units, pursuant to PGMC***

***23.64.360.***

(c) Review Process. Upon submittal of one of the community development permit applications listed in this section, the department shall process it in accordance with Chapter 23.72 PGMC (Permit Application Filing and Processing) and the following:

(1) Staff reviews the proposed project for compliance with the general plan, certified local coastal program, these regulations, and other applicable conditions and regulations.

(2) The chief planner issues a notice of administrative decision, pursuant to the procedures in PGMC 23.86.030, or determines that the permit application presents issues of sufficient public concern to warrant a public hearing and refers the application directly to the appropriate hearing authority, pursuant to Table 23.70.012-1. The hearing authority decision may be appealed or called-up in accordance with Chapter 23.74 PGMC (Appeals and Call-Ups).

(3) If no written request for a hearing is received by the department within 10 days of the issuance of the notice of administrative decision, the action of the chief planner is final, and the appeal and call-up procedures in Chapter 23.74 PGMC (Appeals and Call-Ups) do not apply.

(d) Review Criteria. For architectural review projects, the criteria in PGMC 23.70.060(e) shall apply.

(e) Findings Required for Approval. Permit applications under this section shall be approved or approved with conditions, only if the review authority first makes all of the following applicable findings:

***(1) Findings for All Staff Approvals Under This Section.***

(A) The proposed development conforms to the applicable provisions of the general plan, the local coastal program, any applicable specific plan, and these regulations;

(B) The proposed development is located on a legally created lot;

(C) The subject property is in compliance with all laws, regulations, and rules pertaining to uses, subdivision, setbacks, and any other applicable provisions of this municipal code, and all applicable zoning violation enforcement and processing fees have been paid; and

(D) The proposed development is in compliance with all citywide permits, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) permit.

***(2) Additional Findings for Administrative Architectural Permits and Architectural Design Changes.***

(A) The architecture and general appearance of the completed project are compatible with the neighborhood; and



(B) The completed project will neither be detrimental to the orderly and harmonious development of the city nor impair the desirability of investment or occupation in the neighborhood; and

(C) The chief planner has been guided by and has made reference to applicable provisions of the architectural review guidelines in making its determinations on single-family residences.

(D) Additional Findings for Exterior Alterations to Structures on the Historic Resources Inventory (HRI).

(i) The exterior alteration of any structure on the historic resources inventory is consistent with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings; and

(ii) The exterior alteration of any structure on the historic resources inventory complies with Appendices I through IV of the Pacific Grove Architectural Review Guidelines.

(3) Additional Finding for Administrative Sign Permits. The proposed sign effectively conveys the business identity to the public and possesses pleasing elements of design that protect and enhance the architectural character and harmony of the buildings and neighborhood in which it is located.

(4) Additional Findings for Administrative Use Permits and Variances.

(A) The findings in PGMC 23.70.080(a)(4) shall apply to administrative use permits;

(B) Additional Finding for Administrative Use Permits for Fences, Deer Fences, and Garden Structures. The proposed fencing, and/or garden structure, will be in keeping with the neighborhood and will not obstruct views, air or light from the adjoining public street(s) without there being unique or exceptional circumstances of the property to warrant it; and

(C) The findings in PGMC 23.70.080(b)(4) shall apply to administrative variances.

(f) Effective Date of Decision. The decision shall become effective only when:

(1) The 10-day request for hearing period has expired, or the appeal period following a hearing authority decision has expired or, if appealed further or called up, after final action by the appeal authority in accordance with Chapter 23.74 PGMC (Appeals and Call-Ups); and

(2) All necessary prior approvals have been obtained.

SECTION 4. Existing Municipal Code Section 23.86.030 of Chapter 23.86, entitled "Public Meeting and Hearing Procedures," shall be amended by the deletion of all text shown in strikethrough text (~~strikethrough text~~) and by the addition of all text shown in bold, italic text (***bold, italic text***), as follows:

**23.86.030 Notice of administrative decision procedure.**

Notice of an administrative decision to approve a community development permit shall be given as follows:

(a) Contents of Notice. The contents of a notice of administrative decision shall be as provided in PGMC 23.86.020(a).

(b) Method of Notice Distribution. A notice of administrative decision shall be given as follows:

(1) Mailing.

(A) Mailed notice for administrative use permits, administrative use permit amendments, administrative variances, and administrative variance amendments shall be provided to:

(i) Owners of all property located within a 300-foot radius of the exterior boundaries of the subject lot. The names and addresses used for such notice shall be those appearing on the equalized county assessment roll, as updated from time to time; and

(ii) Any person who has filed a written request for notice with the department and has paid the required fee for the notice.

(B) Mailed notice for administrative architectural permits, architectural design changes, lot mergers, and administrative sign approvals, **and permitting of undocumented dwelling units**, shall be provided to:

(i) Owners of all property abutting the exterior boundaries of the subject lot. The names and addresses used for such notice shall be those appearing on the equalized county assessment roll, as updated from time to time; and

(ii) Any person who has filed a written request for notice with the department and has paid the required fee for the notice.

(2) Posting. The department shall conspicuously post notice on the subject lot in a location that can be viewed from the nearest street. If the subject lot is a through lot, a notice shall be conspicuously posted adjacent to each street frontage in a location that can be viewed from the street.

(3) Timeline. The notice shall be mailed and posted no later than 15 days following the submittal of a complete application to the department and at least 10 days before an action by the chief planner to approve a community development permit.

(4) Duration of Posting. The notice shall be continuously posted from the date required by subsection (b)(3) of this section, until the effective date of the chief planner's decision to approve, or approve with conditions, the community development permit.

(5) Request for Hearing. If a written request is received by the department within the 10-day noticing period before final approval of the community development permit, a public hearing will be held by the hearing authority, pursuant to the noticing requirements of PGMC 23.86.020 if it pertains to an administrative use permit or variance. Noticing of such hearings for all other staff approval permits shall be carried out pursuant to PGMC 23.86.040.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall take effect on the 30th day following its passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE  
THIS 6<sup>th</sup> day of March 2013, by the following vote:

AYES: Mayor Kampe & Councilmembers Cohen, Cuneo, Fischer, Huitt, Lucius  
& Miller

NOES: None

ABSENT: None

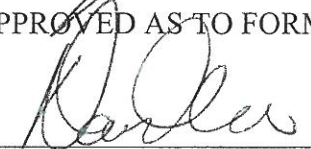
APPROVED:

  
BILL KAMPE, Mayor

ATTEST:

  
\_\_\_\_\_  
DAVID CONCEPCION, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DAVID C. LAREDO, City Attorney



**FACTS (as stated by City of Pacific Grove Community Development Department)**

1. *The subject site is located at 210 17 Mile Drive Pacific Grove, CA 93950 APN 006-351-015*  
Applicant has no current objection to the statements in FACT #1.

2. *The subject site has a designation of High Den 29.0 Du/ac on the adopted City of Pacific Grove General Plan Land Use Map.*  
Applicant has no current objection to the statements in FACT #2.

3. *The project site is located in the R-4 zoning district.*  
Applicant has no current objection to the statements in FACT #3.

4. *Multi-family units are permitted with a Use Permit per PGMC section 23.28.020(c).*  
Applicant has no current objection to the statements in FACT #4.

5. *Per section 23.64.190 parking requirements for the single-family residence is two covered, for the two-bedroom additional dwelling unit one covered and one uncovered and for the two one bedroom units one and a half off street parking shall be provided.*  
Applicant objects to the statement in FACT#5 as City Code §23.64.190 has no legal bearing or relevance to this application.

6. *The subject site is approximately 8,400 square feet.*  
Applicant has no current objection to the statements in FACT #6.

7. *Architectural Permit No. 49 dated December 9, 1964 allowed the conversion of the garage in to a third unit creating the exiting duplex.*  
Applicant has no current objection to the statements in FACT #7.

8. *The subject property received a Variance No. 78-378 in 1978 to permit a reduction in a required side and rear setbacks to allow the applicant to construct a workshop.*  
Applicant has no current objection to the statements in FACT #8.

9. *The subject site is developed with a 1,230sf single family residence, a 1,830sf duplex and an approximate 324 sf unpermitted unit.*  
Applicant states, and the City's property file indicates, the referenced 324 square feet is just part of a structure that was permitted as a building, however not as a dwelling unit. The subject fourth dwelling unit encompasses approximately 1,000sq.ft. of that building.

10. *On October 22, 1987 a code violation was opened because of the unpermitted unit.*  
Applicant objects to the statement in FACT#10 as it has no legal bearing or relevance to this application. Additionally, Applicant found an investigation report dated October 22, 1987 in the City's property file indicating there appeared to be "an additional" unit, but no other evidence that a code violation was opened or remained pending.

11. *An inspection dated September 12, 2014 confirmed the code violation had not been resolved. Compliance was required by January 12, 2015*  
Applicant objects to the implication that as of September 12, 2014, a code violation had been pending since October 22, 1987, or that the inspection of September 12, 2014 was related to the October 22, 1987 investigation report. The September 2014 inspection was precipitated by

*12. Monterey Peninsula Water Management (MPWMD) does not recognize the kitchen and bathroom in the unpermitted unit.*

Applicant objects to the statement in FACT#12 as it has no legal bearing or relevance to this application. City Code §23.64.360(c)3 exempts units created prior to March 1, 1985 from having to obtain verification of onsite water unit credits from the Monterey Peninsula Water Management District, in accordance with MPWMD regulations. Applicant's uncontroverted evidence shows all necessary water fixtures were in existence prior to March 1, 1985.

*13. This project has been determined to be exempt under\CEQA Guidelines Class 3 (b)*

Applicant has no current objection to the statements in FACT #13.

## **FINDINGS**

*1. The proposed approval as conditioned conforms to the applicable provisions of the General Plan, the Local Coastal Plan, and any applicable specific plan and these regulations;*

Applicant has no current objection to FINDING #1.

*2. The proposed approval is located on a legally created lot;*

Applicant has no current objection to FINDING #2.

*3. The subject proposal will not be in compliance with all laws, regulations and rules pertaining to setback, parking and trash facilities and any other provisions of this code per section*

*23.70.040.c;*

Applicant objects to FINDING#3. City Code sections relating to setbacks, parking, and trash facilities, including §23.70.040c, are not to be considered in a §24.64.360 application. The purpose of City Code §23.64.360 is to provide a way for landowners to permit units that do not otherwise meet the City's current development regulations. The City Code sections referenced by the Community Development Department have no legal bearing or relevance to this application.

*4. The subject property will not meet the required three uncovered and four covered off street parking spaces for the R-4 zone with 4 units per section 23.64.190(a)(b);*

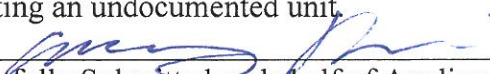
Applicant objects to FINDING#4 because it has not legal bearing or relevance to this application. Parking regulations, including §23.64.190(a)(b), are not a part of City Code §23.64.360 qualifications for permitting an undocumented unit.

*5. The subject property will not meet the required trash enclosure requirements for the R-4 zone with 4 units per section 23.26.080;*

Applicant objects to FINDING#5 because it has not legal bearing or relevance to this application. Trash enclosures, including §23.26.080, are not a part of City Code §23.64.360 qualifications for permitting an undocumented unit.

*6. The subject property exceeds the 60% site coverage requirement for the R-4 zone with a site coverage of 78%;*

Applicant objects to FINDING#6 because it has not legal bearing or relevance to this application. Site Coverage regulations are not a part of City Code §23.64.360 qualifications for permitting an undocumented unit.

  
Respectfully Submitted on behalf of Applicant Jacqueline Trees by  
Attorney, Anthony Davi (Application 15-671)

February 1, 2016



**LAW OFFICE OF  
ANTHONY DAVI**

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January 28, 2016

*Hand Delivered to the Community Development Department*  
City of Pacific Grove, City Hall  
300 Forest Avenue  
Pacific Grove, CA 93950

RECEIVED  
CITY MANAGER'S OFFICE  
2016 JAN 28 1 P 3:26  
CITY OF PACIFIC GROVE

**Re: Records Request under the California Public Records Act**

To Whom It May Concern:

This is a records request on behalf of Jacqueline Trees to inspect and possibly copy the following records:

1. A copy of any recordings, in any media digital or analog, related to the Zoning Administrator hearing held at the City of Pacific Grove City Hall on January 14, 2016.
2. All records relating to any and all applications submitted to the Community Development Department under Pacific Grove Municipal Code Section 23.64.360 (permitting of undocumented units).
3. All records of evidence considered by the City in its approval or denial of all applications under Pacific Grove Municipal Code Section 23.64.360.
4. All records relating to the City's consideration and enactment of Pacific Grove Municipal Code Section 23.64.360.
5. All records relating to the City's establishment of protocol and the City's protocol used for administering Pacific Grove Municipal Code Section 23.64.360.

The time period covered by this request is from January 1, 2012 to the present.

The request includes both analog and electronic information and communications of all kinds, including those residing on personal computers on shared drive(s), in backups, and in archive form. We request access to the electronic records in the same format as held by the City. [Gov. Code, §6253.9, subd.(a).] Please produce electronic records in electronic format.

If there are records relating to this request which you believe may be eliminated from the City production, please let me know. If the City has any questions regarding this request, please contact me. We will be happy to assist the City in making the response as complete and efficient as possible. Please refer to Government Code §6253.1 which requires public agencies to assist the public in making a focused and effective record inquiry as follows: (1) identifying records and information responsive to the request, (2) describing the information technology and physical location of the records, and (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.





**EMC PLANNING GROUP INC.**  
A LAND USE PLANNING & DESIGN FIRM

301 Lighthouse Avenue Suite C Monterey California 93940  
Tel 831-649-1799 Fax 831-649-8399 www.emcplanning.com

**To:** Anthony Davi  
**From:** Rachel Hawkins

**Date:** March 16, 2016

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**Re:** Evaluation of Permitting Application for Undocumented Dwelling Unit at 210 17 Mile Drive, Pacific Grove, CA.

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EMC Planning Group conducted an independent assessment of an undocumented dwelling unit located at 210 17 Mile Drive (zoned R-4) owned by Jaqueline Trees. Specifically, EMC Planning Group evaluated the property owner's application for permitting an undocumented dwelling unit for compliance with the Pacific Grove Municipal Code. EMC Planning Group planners found that the property owner's application met the requirements of Pacific Grove's Municipal Code section 23.64.360. Additionally, EMC Planning Group found that the Municipal Code does not mandate that an undocumented unit, meeting the requirements of section 23.64.360, comply with additional requirements for its specific zoning designation. EMC Planning Group finds that Jaqueline Trees' application for permitting an undocumented dwelling unit was improperly denied.

Permitting of Undocumented Dwelling Unit under Section 23.64.360

According to Pacific Grove Municipal Code section 23.64.360, if an owner of a residential property within any residential zone, excluding R-1-B-4 and M-H districts, discovers that a preexisting dwelling unit on her property is undocumented, through no fault of her own, she is afforded an opportunity to remedy the undocumented status of the unit.

The property owner shall provide: documentation that a) the unit, including kitchen facilities, existed and was used as a separate, independent dwelling unit prior to January 1, 1987, and b) documentation that the unit existed prior to the current owner purchasing the property.

Upon fulfilling the two requirements discussed above, Municipal Code section 23.64.360 (c) requires the property owner to obtain a final building inspection to verify that there are no health and life safety

MEMORANDUM

*Anthony Davi  
Law Offices of Anthony Davi  
March 16, 2016, Page 2*

conditions rendering the dwelling unit unsafe. The property owner then must correct any unsafe conditions found by the building official and obtain a sign-off by the official inspector that any corrections required have been made. The property owner then may submit an application for the permitting of the undocumented unit. Additionally, for undocumented units created after March 1, 1985, the property owner must obtain verification from the Monterey Peninsula Water Management District of "legal water fixture units through use of on-site water credits."

Upon completion of the above steps, the owner may then submit an application, with the above evidence and documentation, to the community development department for staff approval.

The Municipal Code specifically exempts the undocumented unit from conditions placed on second units pursuant to Municipal Code Chapter 23.80.

#### Existence of Unit Prior to January 1, 1987

Municipal Code section 23.64.360 (a) requires that the property owner submit one or more of six acceptable types of evidence that the undocumented dwelling unit, including kitchen facilities, existed prior to January 1, 1987. One acceptable type of evidence listed in this code section is Monterey County assessor's property tax information recognizing the unit prior to that date.

Jaqueline Trees, the property owner of 210 17 Mile Drive in Pacific Grove, provided Monterey County Tax Assessor's records recognizing the existence of the independent dwelling unit and its kitchen and water fixtures as of April 25, 1979, which is prior to January 1, 1987.

#### Existence of Unit Prior to Current Owner Purchasing Property

Municipal Code section 23.64.360 (b) provides that there are several types of acceptable evidence the owner may submit proving that the unit, including kitchen facilities, existed prior to the current owner purchasing the property including a recorded deed demonstrating the date of purchase by the current owner.

The property owner provided a grant deed showing that the property was purchased by her in 2009, which evidences that the unit, including kitchen facilities, existed prior to the property owner purchasing the property.

#### Building Inspection/Water Credits/Application

Upon fulfilling the requirements discussed above, the property owner requested a building official inspection. Despite the directive of Municipal Code Section 23.64.360 that the property owner shall submit the application after the building inspection, the City would not allow for the building inspection until an



*Anthony Davi  
Law Offices of Anthony Davi  
March 16, 2016, Page 3*

application was filed by the property owner. Therefore, Jaqueline Trees filed the undocumented dwelling unit permitting application before the inspection. A building inspection has since completed and the property owner is prepared to correct any unsafe conditions found by the inspector to obtain the final inspection sign off.

The property owner is not required to obtain verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits as she has provided evidence via the Monterey County Tax Assessor's records that the dwelling unit, and its fixtures, were in existence prior to March 1, 1985.

#### Additional Considerations

Municipal Code section 23.64.360 specifically exempts undocumented dwelling units that meet its requirements from having to meet additional zoning requirements for second dwelling units set forth in Municipal Code Chapter 23.80. Additionally, no provision of the Municipal Code requires that second undocumented dwelling units meet zoning requirements specific to their zoning designations. Furthermore, section 23.64.360 does not require the property owner to prove she was unaware of the undocumented status of the unit at the time of purchase for approval of her application for permitting the undocumented unit. If the unit was created before January 1, 1987, and the property owner purchased it after the date it was created, then the existence of the undocumented unit was not the fault of the property owner.

EMC Planning Group inspected eight additional houses within Pacific Grove for which undocumented unit permitting applications had been submitted under 23.64.360. EMC Planning Group found that many of these houses did not meet additional requirements identified in the Municipal Code for their specific zoning designations. It appears that these property owners were not asked to demonstrate that they were unaware of the undocumented status of their units. However, many of these applications were approved by Pacific Grove.

#### Conclusion

The property owner has fulfilled all requirements of 23.64.360 and it is the belief of EMC Planning Group that the property owner's application for documenting an unpermitted dwelling unit was wrongfully denied.

Sincerely,

Rachel Hawkins  
Assistant Planner

MEMORANDUM



When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.

In the absence of a city permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the state Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.

(a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987, shall include one or more of the following:

- (1) Tax records that show income from the unit(s) prior to that date.
- (2) Monterey County assessor's property tax information recognizing the unit(s) prior to that date.
- (3) Utility bills prior to that date if there were separate meters.
- (4) Personal references from tenants or neighbors verifying occupancy of the unit(s) prior to that date.
- (5) Property sales information prior to that date that notes the separate unit(s).
- (6) Other substantial evidence that similarly documents the existence of the unit(s) prior to that date.

(b) Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in subsection (a) of this section, plus one of the following:

- (1) Recorded deed demonstrating the date of purchase by the current owner.
- (2) Other substantial evidence that similarly documents the date of purchase by the current owner.

(c) Before applying for permitting of an undocumented unit, the owner shall also:

- (1) Have an inspection of the undocumented unit(s) by the building official to verify that there are no health and life safety conditions that render the unit(s) unsafe, and correct any unsafe conditions required by the building official.
- (2) Obtain the final building inspection record, including inspection sign-off of any corrections required.
- (3) For undocumented units created after March 1, 1985, obtain verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits.

(d) Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation.

(e) Conditions placed on second units pursuant to Chapter 23.80 PGMC shall not apply to undocumented units permitted through this process. [Ord. 13-005 § 2, 2013].

## RESIDENTIAL BUILDING RECORD

## ADDRESSES

PARCEL  
94587

OF 3 SHEETS

## DESCRIPTION OF BUILDING

## ROOM AND FINISH DETAIL

ROOM AND FINISH DETAIL

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# RESIDENTIAL BUILDING RECORD

PARCEL 6-33-11-1721

ADDRESS

SHEET 2 OF 3 SHEETS

## DESCRIPTION OF BUILDING

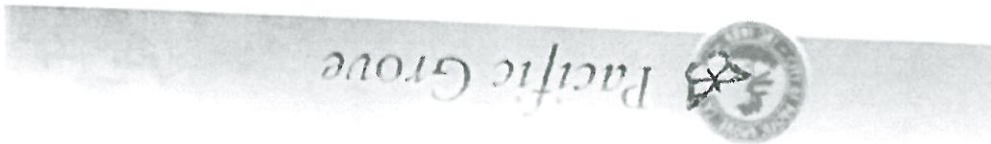
CLASS & SHAPE	CONSTRUCTION	STRUCTURAL	EXTERIOR	ROOF	LIGHTING	WIRING	AIR CONDITION	ROOM AND FINISH DETAIL
1	Light	Substand	Stucco or	Flat	KT	Central	Rooms	Floor Finish
2	Standard	Single Wall	Siding	Gable x Shed	KT	M-BTU	Floors	Floor Finish
3	Above Stand	Concrete Block	Alum Siding	4 Pitch	FX	Zone Unit	3 1/2	Material Grade
4	Special	Brick	Wood Shingle	Sealed	FX	Wall Unit		
5	Foundation	Brick	Wood Shingle	No Ridges	FX	Radon Unit		
6	Concrete	Floor Joist	Shakes	X Kerf Grovel	FX	Baseboard		
7	Reinforced	Beam Joist	Stone	Gutters	FX	Gravity		
8	Brick	Cont Slab	Stone	Downers	FX	Heat Pump		
9	Wood	Sub Floor	Stone	Shingle	FX	Oil Burner		
10	Piers	WINDOWS	Alum Sash	Tile	FX	Fireplace		
11	Medium	Ins Ceilings	Steel Sash	Composition	FX	Fireplace		
12	Light Heavy	Ins Walls	Steel Sash	Comp Shingle	FX	Fireplace		
13	Units	Ins Walls	Alum Sash	Comp Shingle	FX	Fireplace		
14	Permit	Ant. Date	Age	Life	Table	%	BUILT-INS & SPEC. FEATURES	BATH DETAIL
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Appraiser & Date	Unit	Area	Unit Cost	Cost	Per Prop	Unit Cost	Cost	Per Prop	Unit Cost	Cost	Per Prop	Unit Cost	Cost	Per Prop
1001	Normal % Good													
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Online Property Database

Access basic property information without having to leave home.



Map data ©2015 Google Imagery ©2015. A Report a map error

Property Details  
APN: 00655101500  
Site Address: 210 17 MILL DR #C  
City: PACIFIC GROVE  
Zip Code: 93950-2435  
Approx. Lot Size (Sq. Ft.): 8399.31  
Archaeological Zone: No  
Coastal Zone: No  
Historic Resources Inventory: No  
Area of Special Biological Significance Watershed: Yes  
Butterfly Habitat: No  
Environmentally Sensitive Habitat Area: No  
Septic: No  
Runoff Retention Required: No  
Land Use: High Dens 29.0 D1 ag  
Lot/Block: PACIFIC GROVE AC RT'S POR OF BLK 313 A BLK 313A & POR OF S1 B D OF LOT 3 B1 R 313A DESC AS EXCEPTION 2 IN VOL 1947 PG 148  
Zoning: R-1

Building Details

Unit Details  
Unit Sequence Number: 1  
Unit Size (Sq. Ft.): 1230  
Number of Bedrooms: 3  
Number of Full Bathrooms: 1  
Number of Half Bathrooms: 0  
Number of Total Rooms: 8  
Number of Fireplaces: 1



Unit Sequence Number: 1	Unit Size (Sq. Ft.): 1813
Number of Bedrooms: 3	Number of Full Bathrooms: 2
Number of Half Bathrooms: 0	Number of Total Rooms: 10
Number of Fireplaces: 0	

Unit Sequence Number: 1	Unit Size (Sq. Ft.): 324
Number of Bedrooms: 1	Number of Full Bathrooms: 1
Number of Half Bathrooms: 0	Number of Total Rooms: 1
Number of Fireplaces: 0	

The information found in this database is updated regularly and originates from the Monterey County Assessor's Office. Further details on property information can be attained by coming to the City of Pacific Grove Community Development Department, 300 Forest Avenue, Pacific Grove, CA 93940, during Planning Counter Hours, Monday-Friday, 8 am to noon on business days, or by contacting the Monterey County Assessor directly. The Monterey County Assessor can be contacted as follows:

Monterey County Assessor  
168 West Alisal Street  
Salinas, CA 93902  
(831) 755-5035  
vagmins@co.monterey.ca.us  
www.co.monterey.ca.us/assessor

THIS INFORMATION CONTAINED HEREIN WAS BELIEVED TO BE VALID AT THE TIME OF PUBLICATION. THE CITY OF PACIFIC GROVE RESERVES THE RIGHT TO MAKE CHANGES IN THE WITH SITE AT ANY TIME AND WITHOUT NOTICE. THE CITY OF PACIFIC GROVE ASSUMES NO LIABILITY FOR DAMAGES INCURRED DIRECTLY OR INDIRECTLY AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES. THE WEB SITE DOES NOT TAKE RESPONSIBILITY FOR THE WEBSITES NOT CONTROLLED BY THE CITY OF PACIFIC GROVE. THE CITY OF PACIFIC GROVE ENDORSES ANY CONTENT OR PRODUCTS CONTAINED THEREIN.



Case No. \_\_\_\_\_

CITY OF PACIFIC GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT  
COMPLAINT AND INVESTIGATION FORM

DATE RECEIVED 10-22-87 BY \_\_\_\_\_  
LOCATION OF VIOLATION 210 17 Mile Drive  
APN. 06-351-15 ZONE R-4  
NAME OF OWNER G.E. Herzog  
ADDRESS OF OWNER 212 17 Mile Drive  
NAME OF TENANT D  
COMPLAINANT/REFERRAL SOURCE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_

COMPLAINT: Visiting the site this morning we suspected an additional unit (it seems that the owner converted a covered carport to a unit). In fact we also found 5 mail boxes instead of 4. Every thing in the file showed 1x00 + 2 units apartment.

ASSIGNED TO \_\_\_\_\_ DATE 10/22/87

INVESTIGATION FINDINGS:

VIOLATION OF \_\_\_\_\_  
DISPOSITION: \_\_\_\_\_  
\_\_\_\_\_ UNSUBSTANTIATED COMPLAINT/NO VIOLATION (SEE FINDINGS)  
\_\_\_\_\_ FOLLOW UP/COMPLIANCE DATE \_\_\_\_\_  
\_\_\_\_\_ REFERRED \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_ REASON \_\_\_\_\_  
\_\_\_\_\_ CLEARED \_\_\_\_\_

EXHIBIT

2

## Document Details

<b>Document Number:</b>	2009062533
<b>Document Date:</b>	10/02/2009
<b>Pages:</b>	3
<b>Document Type:</b>	006 - Deed
<b>Reel/Page:</b>	NA / NA
<b>Parcel Number:</b>	006351015
<b>Transfer Tax:</b>	\$951.50 - Pacific Grove

<b>Grantor Names</b>	<b>Grantee Names</b>
GUTIERREZ RAFAELA TR	TREES JACQUELINE TR
GUTIERREZ FAMILY TRUST	TREES JACQUELINE LIVING TRUST
GUTIERREZ LOUIS DANIEL TR	

[Back to document list](#)

ORDER COPY





**RECORDING REQUESTED BY:**

Chicago Title Company  
Escrow No.: 09-52503687-GW  
Locate No.: CACT17727-7727-4525-0052503687  
Title No.: 09-52503687-MM

**When Recorded Mail Document  
and Tax Statement To:**

Jacqueline Y. Trees  
1112 Montana Ave #238  
Santa Monica . CA 90403

Stephen L. Vagnini  
Monterey County Recorder  
Recorded at the request of  
**Chicago Title**

CRMELISSA  
10/02/2009  
8:00:00

**DOCUMENT: 2009062533**



**Titles: 1/ Pages: 3**

Fees 13.00  
Taxes 951.50  
Other  
AMT PAID \$964.50

APN: 006-351-015

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

**The undersigned grantor(s) declare(s)**  
**Documentary transfer tax is \$951.50 LP**

- [ X ] computed on full value of property conveyed, or  
[ X ] computed on full value less value of liens or encumbrances remaining at time of sale,  
[ X ] City of **Pacific Grove,**

**FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,**

Rafaela Gutierrez, Trustee, or her successors in trust, under the Survivor's Trust established under the Gutierrez Family Trust, dated December 11, 1995 and Louis Daniel Gutierrez, Successor Trustee of the Gutierrez Family Trust dated December 11, 1995

**hereby GRANT(S) to**

Jacqueline Trees, Trustee of the Jacqueline Trees Living Trust dated May 20, 1996  
**the following described real property in the City of Pacific Grove, County of Monterey, State of California:**  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The within document is executed in two counterparts for the purpose of facilitating its execution by the parties hereto. The two counterparts are to be construed and interpreted as a single document

DATED: September 8, 2009  
State of California  
County of **YORK**

The Survivors Trust Established under the Gutierrez Family Trust, dated December 11, 1995

On **SEPTEMBER 10 2009** before me,  
**FRANKIE R KEEFE**, Notary Public  
(here insert name and title of the officer), personally appeared  
**LOUIS DANIEL GUTIERREZ**

Rafaela Gutierrez, Trustee

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

The Gutierrez Family Trust dated December 11, 1995

**Louis Daniel Gutierrez** 9-10-9  
Louis Daniel Gutierrez, Trustee **Trustee**

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature **Frankie R Keefe** (Seal)

Frankie R. Keefe, Notary Public  
State of Maine  
My Commission Expires 3/12/2016



**MAIL TAX STATEMENTS AS DIRECTED ABOVE**

FD-213 (Rev 12/07)  
(grant)(06-09)

GRANT DEED

**EXHIBIT**

**4-A**

**RECORDING REQUESTED BY:**

Chicago Title Company  
Escrow No.: 09-52503687-GW  
Locate No.: CACTI7727-7727-4525-0052503687  
Title No.: 09-52503687-MM

**When Recorded Mail Document  
and Tax Statement To:**

Jacqueline Y. Trees  
1112 Montana Ave #238  
Santa Monica CA 90403

APN: 006-351-015

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

The undersigned grantor(s) declare(s)  
Documentary transfer tax is \$951.50 *LP*

- ☒ computed on full value of property conveyed, or  
☐ computed on full value less value of liens or encumbrances remaining at time of sale,  
☒ City of **Pacific Grove**,

**FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,**

Rafaela Gutierrez, Trustee, or her successors in trust, under the Survivor's Trust established under the Gutierrez Family Trust, dated December 11, 1995 and Louis Daniel Gutierrez, Successor Trustee of the Gutierrez Family Trust dated December 11, 1995

**hereby GRANT(S) to**

Jacqueline Trees, Trustee of the Jacqueline Trees Living Trust dated May 20, 1996

**the following described real property in the City of Pacific Grove, County of Monterey, State of California:**

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The within document is executed in two counterparts for the purpose of facilitating its execution by the parties hereto. The two counterparts are to be construed and interpreted

DATED: September 8, 2009 as a single document

State of California }  
County of *San Diego* }

Or *Sept 8, 2009* before me,  
*[Signature]* Notary Public  
(here insert name and title of the officer), personally appeared  
*Rafaela Gutierrez*

The Survivors Trust Established under the Gutierrez Family Trust, dated December 11, 1995

*Rafaela Gutierrez*  
Rafaela Gutierrez, Trustee

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

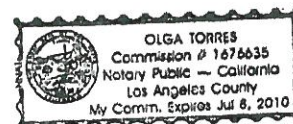
The Gutierrez Family Trust dated December 11, 1995

Louis Daniel Gutierrez, Trustee

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)





Escrow No.: 09-52503687-GW  
Locate No.: CACTI7727-7727-4525-0052503687  
Title No.: 09-52503687-MM

## EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PACIFIC GROVE, COUNTY OF MONTEREY, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

### PARCEL I:

BEGINNING at a point on the Westerly line of Dennett Street, distant thereon S. 19° 23' 45" W., 100.00 feet from the point of intersection of said Westerly line of Dennett Street with the Southerly line of Lighthouse Road in the said City of Pacific Grove, California, and running thence S. 19° 23' 45" W., along said Westerly line of Dennett Street, 50.00 feet; thence at right angles N. 70° 36' 15" W., 140.00 feet; thence at right angles N. 19° 23' 45" E., 50.00 feet; thence at right angles S. 70° 36' 15" E., 140.00 feet to the point of beginning.

Being a part of that certain tract of land conveyed by Madelaine Crenner to U. Leandro and May Leandro, his wife, by deed dated July 5, 1945 in Volume 872 of Official Records of Monterey County, at Page 300.

### PARCEL II:

BEGINNING at a point on the Westerly line of Dennett Street, distant thereon S. 19° 23' 45" W., 90 feet from the point of the intersection of said Westerly line of Dennett Street, now 17 Mile Drive, with the Southerly line of Lighthouse Avenue, in the City of Pacific Grove, California; and running thence S. 19° 23' 45" W., along said Westerly line of 17 Mile Drive, 10 feet; thence at right angles N. 70° 36' 15" W., 140 feet; thence N. 19° 23' 45" E., 5.88 feet to the Southwest corner of that certain parcel of land conveyed to Mildred Waterman, et al., by deed dated December 10, 1956 in Volume 1758 of Official Records of Monterey County, at Page 446; thence at right angles S. 70° 36' 15" E., 18.11 feet to the Southeast corner thereof; thence along the Southeasterly boundary thereof N. 41° 20' 15" E., 4.12 feet, more or less, to the point of intersection thereof with a line drawn N. 70° 36' 15" W., from the point of beginning; thence leaving said Southeasterly boundary S. 70° 36' 15" E., to the point of beginning.

APN: 006-351-015

END OF DOCUMENT

Exhibit  
4-C

LWG

## **Submission of Applicant Jacqueline Trees for Zoning Administrator Hearing For PUU Application 15-671 (January 14, 2016 at 10:00AM)**

This application is filed under City Code §23.64.360 which describes the requirements for the permitting of undocumented dwelling units in Pacific Grove. The Staff Report recommends denial of this application, but it does not address the facts as they relate to the City Code under which this application is filed. According to the facts presented, the City has no legal basis on which the application of Ms. Jacqueline Trees (Applicant) may be denied.

### **The Law as it applies to this Application**

The requirements of City Code §23.64.360 are clear and determinative. It provides:

When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.

In this case, the subject property is in R-4 zoning which qualifies for the remedy. Additionally, Applicant does not seek to change the preexisting location, size, or form of the subject unit as it existed at the time of her purchase and the code section's effective date, March 6, 2013.

There does not appear to be a permit on file for the subject fourth unit. Pacific Grove City Code §23.64.360 states:

In the absence of a city permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the state Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.

(a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987, shall include one or more of the following:

(2) Monterey County assessor's property tax information recognizing the unit(s) prior to that date.

Applicant has met the above evidentiary requirements as follows:

### **Monterey County Tax Assessor Records Indicate Existence of Three Buildings and Four Dwelling Units (See Application Records Attached to CDD Staff Report)**

As of 1979, Monterey County Tax Assessor records confirm the subject property as having three buildings with a total of four kitchens and four bathrooms, as follows:

#### **Building One (The Original House)**

Building One is shown to have been built in 1946, to be a one story single family dwelling with three bedrooms, one bathroom, one kitchen, and a fireplace. This is the current state of the front house. (Exhibit 1A, highlights added)



*meet health and safety inspection and documentation requirements...*

Commission members expressed concern with the plight of unsuspecting property owners that have purchased property with one or more preexisting secondary dwelling units on-site only to discover later that the units are unpermitted. The Commission directed staff to develop language that would enable undocumented units to be legalized if there are no health and life safety conditions that render the units unsafe. if the units pre-date the current property owner's purchase of the property...(underline emphasis added).

### **Importance of Following the Code**

Code amendments, such as §23.64.360, are the primary tool used by the City to carry out the goals, objectives, and policies of the Pacific Grove General Plan and Local Coastal Program (LCP). City Codes are enacted based on authority from the State of California. All laws authorized by California must adhere to the U. S. Constitution. Fourteenth Amendment due process and equal protection requires the City to apply the Code fairly to Applicant as it exists, both in process and substance. The CDD has not allowed Applicant to utilize the procedure laid out in §23.64.360, and it has not applied the determinative criteria of §23.64.360 in its staff report analysis and recommendation of denial.

### **Summary**

The requirements of City Code §23.64.360 are clear and controlling. Applicant provided the City with Monterey County Tax Assessor records proving the existence of all four units (including the subject fourth unit), each with a kitchen and bathroom, prior to January 1, 1987. She also provided a copy of her grant deed showing she purchased the subject property in 2009. This evidence is uncontroverted and has already been deemed sufficient to meet the requirements of §23.64.360(a) and (b). Section 23.64.360(c) then requires, before applying for permitting of an undocumented unit, the owner shall have an inspection of the undocumented unit by the building official to verify that there are no health and life safety conditions that render the unit unsafe, and correct any unsafe conditions required by the building official. The inspection has been done. All that is left for Applicant to fulfill the requirements of §23.64.360 is to correct any unsafe conditions and obtain inspection sign-off. Then, according to §23.64.360 (d), "Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation."

*12. Monterey Peninsula Water Management (MPWMD) does not recognize the kitchen and bathroom in the unpermitted unit.*

Applicant objects to the statement in FACT#12 as it has no legal bearing or relevance to this application. City Code §23.64.360(c)3 exempts units created prior to March 1, 1985 from having to obtain verification of onsite water unit credits from the Monterey Peninsula Water Management District, in accordance with MPWMD regulations. Applicant's uncontroverted evidence shows all necessary water fixtures were in existence prior to March 1, 1985.

*13. This project has been determined to be exempt under CEQA Guidelines Class 3 (b)*  
Applicant has no current objection to the statements in FACT #13.

### **FINDINGS**

*1. The proposed approval as conditioned conforms to the applicable provisions of the General Plan, the Local Coastal Plan, and any applicable specific plan and these regulations;*

Applicant has no current objection to FINDING #1.

*2. The proposed approval is located on a legally created lot;*

Applicant has no current objection to FINDING #2.

*3. The subject proposal will not be in compliance with all laws, regulations and rules pertaining to setback, parking and trash facilities and any other provisions of this code per section 23.70.040.c;*

Applicant objects to FINDING#3. City Code sections relating to setbacks, parking, and trash facilities, including §23.70.040c, are not to be considered in a §24.64.360 application. The purpose of City Code §23.64.360 is to provide a way for landowners to permit units that do not otherwise meet the City's current development regulations. The City Code sections referenced by the Community Development Department have no legal bearing or relevance to this application.

*4. The subject property will not meet the required three uncovered and four covered off street parking spaces for the R-4 zone with 4 units per section 23.64.190(a)(b);*

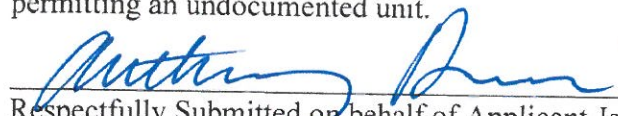
Applicant objects to FINDING#4 because it has not legal bearing or relevance to this application. Parking regulations, including §23.64.190(a)(b), are not a part of City Code §23.64.360 qualifications for permitting an undocumented unit.

*5. The subject property will not meet the required trash enclosure requirements for the R-4 zone with 4 units per section 23.26.080;*

Applicant objects to FINDING#5 because it has not legal bearing or relevance to this application. Trash enclosures, including §23.26.080, are not a part of City Code §23.64.360 qualifications for permitting an undocumented unit.

*6. The subject property exceeds the 60% site coverage requirement for the R-4 zone with a site coverage of 78%;*

Applicant objects to FINDING#6 because it has not legal bearing or relevance to this application. Site Coverage regulations are not a part of City Code §23.64.360 qualifications for permitting an undocumented unit.

  
Respectfully Submitted on behalf of Applicant Jacqueline Trees by  
Attorney, Anthony Davi (Application 15-671)

January 11, 2016



215 WEST FRANKLIN STREET #205  
MONTEREY, CALIFORNIA 93940  
WWW.DAVILAW.COM

PHONE (831) 373-3192  
FAX (831) 373-3193  
ANTHONY@DAVILAW.COM

**LAW OFFICE OF  
ANTHONY DAVI**

---

May 28, 2015

Ashley Hobson, Planner  
City of Pacific Grove  
Community Economic Development Department – Planning Division  
300 Forest Avenue, Pacific Grove, California 93950  
[ahobson@cityofpacificgrove.org](mailto:ahobson@cityofpacificgrove.org)

**Re: Owner's Pre-Application Submittal to Remedy Undocumented Status of Fourth Unit at 210 17 Mile Drive, under Pacific Grove City Code §23.64.360**

Dear Ms. Hobson:

Pacific Grove City Code §23.64.360, Permitting of undocumented dwelling units, states:

When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.

In this case, the subject property is in R-4 zoning which qualifies for the remedy. Additionally, Owner has not and does not seek to change the preexisting location, size, or form of the subject unit.

There does not appear to be a permit on file for the subject fourth unit. City Code §23.64.360 states:

In the absence of a city permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the state Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.

- (a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987, shall include one or more of the following:
- (2) Monterey County assessor's property tax information recognizing the unit(s) prior to that date.

Ashley Hobson  
May 28, 2015  
Page three of three

City Code §23.64.360 (b) also requires:

Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in subsection (a) of this section, plus one of the following:

- (1) Recorded Deed demonstrating the date of purchase by the current owner.
- (2) Other substantial evidence that similarly documents the date of purchase by the current owner.

The current Owner purchased 210 17 Mile Drive on October 2, 2009 (Exhibit 3, County Deed transfer summary attached, Document #2009062533). Owner is in process of obtaining a copy of the grant deed (i.e., Document #2009062533).

#### **Ordinance No. 13-005**

Pacific Grove City Code §23.64.360 was created by the passing of Ordinance No. 13-005, signed March 6, 2013. In the Findings of Ordinance 13-005 it is stated this code section was enacted to help address the Housing Element's key goal of trying to "Provide diverse, high quality housing choices appropriate for residents at all levels of income." 210 17 Mile Drive is located in an R-4 multiunit neighborhood. A large building multi-unit apartment complex is directly next door. Conversely, the subject unit is rented at a modest price point in a standalone building. Not sharing a floor, walls, or a ceiling adds housing quality that a large apartment complex unit cannot. The fourth unit at 210 17 Mile Drive is exactly the type of dwelling this ordinance was meant to protect.

#### **Summary**

Ms. Jaqueline Trees purchased 210 17 Mile Drive in 2009, long after the fourth unit had become a dwelling. The attached Monterey County Tax Assessor records clearly recognize the existence of a fourth dwelling unit, with a bedroom, a bathroom, and its own kitchen, all as of April 25, 1979. The attached City's Complaint and Investigation Form dated October 22, 1987, provides further evidence of the accuracy of the County's records. According to my reading of Code §23.64.360, the Owner's submission of documentary evidence is the first step in the permitting process. Please review the attached exhibits and confirm that they are sufficient to meet the requirements of Code §23.64.360(a). Please call me with any questions. Thank you.

Sincerely,



Anthony Davi

Enclosures: Exhibits 1A, 1B, 1C, 1D, 2, and 3



1471

SHETLAND

## ROOM AND FINISH DETAIL

[illegible]





## Online Property Database

Access basic property information without having to leave home.



### Property Details

APN: 006351015000  
Site Address: 210 17 MILE DR #C  
City: PACIFIC GROVE  
Zip Code: 93950-2455  
Approx. Lot Size (Sq. Ft.): 8399.31  
Archaeological Zone: No  
Coastal Zone: No  
Historic Resources Inventory: No  
Area of Special Biological Significance Watershed: Yes  
Butterfly Habitat: No  
Environmentally Sensitive Habitat Area: No  
Septic: No  
Runoff Retention Required: No  
Land Use: High Dens 29.0 DU/ac  
Lot/Block: PACIFIC GROVE ACRES POR OF BLK 313 A BLK 3313A & POR OF SUB D OF LOT 3 BLK 313A DESC AS EXCEPTION 2 IN VOL 1947 PG 148  
Zoning: R-4

### Building Details

#### Unit Details

Unit Sequence Number: 1  
Unit Size (Sq. Ft.): 1230  
Number of Bedrooms: 3  
Number of Full Bathrooms: 1  
Number of Half Bathrooms: 0  
Number of Total Rooms: 8  
Number of Fireplaces: 1





Case No. \_\_\_\_\_

CITY OF PACIFIC GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT  
COMPLAINT AND INVESTIGATION FORM

DATE RECEIVED 10-22-87 BY \_\_\_\_\_

LOCATION OF VIOLATION 210 17 Mile Drive

APN. 06-351-15 ZONE R-4

NAME OF OWNER G.E. Herzog

ADDRESS OF OWNER 212 17 Mile Drive

NAME OF TENANT D

COMPLAINANT/REFERRAL SOURCE \_\_\_\_\_

ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_

COMPLAINT: Visiting the site this morning we suspected an additional unit (it seems that the owner converted a covered carport to a unit). In fact we also found 5 mail boxes instead of 4. Every thing in the file showed 1~~st~~ + 2 units apartment.

ASSIGNED TO \_\_\_\_\_ DATE 10/22/87

INVESTIGATION FINDINGS:

VIOLATION OF \_\_\_\_\_  
DISPOSITION: \_\_\_\_\_

\_\_\_\_\_ UNSUBSTANTIATED COMPLAINT/NO VIOLATION (SEE FINDINGS)  
\_\_\_\_\_ FOLLOW UP/COMPLIANCE DATE \_\_\_\_\_  
\_\_\_\_\_ REFERRED \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_\_ REASON \_\_\_\_\_  
\_\_\_\_\_ CLEARED \_\_\_\_\_

EXHIBIT

2

**RECORDING REQUESTED BY:**

Chicago Title Company  
Escrow No.: 09-52503687-GW  
Locate No.: CACTI7727-7727-4525-0052503687  
Title No.: 09-52503687-MM

**When Recorded Mail Document  
and Tax Statement To:**

Jacqueline Y. Trees  
1112 Montana Ave #238  
Santa Monica . CA 90403

Stephen L. Vagnini  
Monterey County Recorder  
Recorded at the request of  
**Chicago Title**

CRMELISSA  
10/02/2009  
8:00:00

DOCUMENT: 2009062533



Titles: 1/ Pages: 3

Fees: 13.00  
Taxes: 951.50  
Other:  
AMT PAID \$964.50

APN: 006-351-015

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$951.50 LP

- [ X ] computed on full value of property conveyed, or  
[ ] computed on full value less value of liens or encumbrances remaining at time of sale,  
[ X ] City of **Pacific Grove**,

**FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,**

Rafaela Gutierrez, Trustee, or her successors in trust, under the Survivor's Trust established under the Gutierrez Family Trust, dated December 11, 1995 and Louis Daniel Gutierrez, Successor Trustee of the Gutierrez Family Trust dated December 11, 1995

hereby **GRANT(S)** to

Jacqueline Trees, Trustee of the Jacqueline Trees Living Trust dated May 20, 1996  
the following described real property in the City of **Pacific Grove**, County of **Monterey**, State of **California**:  
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The within document is executed in two counterparts for the purpose of facilitating its execution by the parties hereto. The two counterparts are to be construed and interpreted as a single document

State of **California**  
County of **YORK**

The Survivors Trust Established under the Gutierrez Family Trust, dated December 11, 1995

On **SEPTEMBER 10 2009** before me,  
**FRANKIE R KEEFE**, Notary Public  
(here insert name and title of the officer), personally appeared  
**LOUIS DANIEL GUTIERREZ**

Rafaela Gutierrez, Trustee

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

The Gutierrez Family Trust dated December 11, 1995

**Louis Daniel Gutierrez** 9-10-9  
Louis Daniel Gutierrez, Trustee **Trustee**

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature **Frankie R Keefe** (Seal)

Frankie R. Keefe, Notary Public  
State of Maine  
My Commission Expires 3/12/2016



**MAIL TAX STATEMENTS AS DIRECTED ABOVE**

EXHIBIT

4-A



Escrow No.: 09-52503687-GW  
Locate No.: CACT17727-7727-4525-0052503687  
Title No.: 09-52503687-MM

## EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PACIFIC GROVE, COUNTY OF MONTEREY, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

### PARCEL I:

BEGINNING at a point on the Westerly line of Dennett Street, distant thereon S. 19° 23' 45" W., 100.00 feet from the point of intersection of said Westerly line of Dennett Street with the Southerly line of Lighthouse Road in the said City of Pacific Grove, California, and running thence S. 19° 23' 45" W., along said Westerly line of Dennett Street, 50.00 feet; thence at right angles N. 70° 36' 15" W., 140.00 feet; thence at right angles N. 19° 23' 45" E., 50.00 feet; thence at right angles S. 70° 36' 15" E., 140.00 feet to the point of beginning.

Being a part of that certain tract of land conveyed by Madelaine Crenner to U. Leandro and May Leandro, his wife, by deed dated July 5, 1945 in Volume 872 of Official Records of Monterey County, at Page 300.

### PARCEL II:

BEGINNING at a point on the Westerly line of Dennett Street, distant thereon S. 19° 23' 45" W., 90 feet from the point of the intersection of said Westerly line of Dennett Street, now 17 Mile Drive, with the Southerly line of Lighthouse Avenue, in the City of Pacific Grove, California; and running thence S. 19° 23' 45" W., along said Westerly line of 17 Mile Drive, 10 feet; thence at right angles N. 70° 36' 15" W., 140 feet; thence N. 19° 23' 45" E., 5.88 feet to the Southwest corner of that certain parcel of land conveyed to Mildred Waterman, et al., by deed dated December 10, 1956 in Volume 1758 of Official Records of Monterey County, at Page 446; thence at right angles S. 70° 36' 15" E., 18.11 feet to the Southeast corner thereof; thence along the Southeasterly boundary thereof N. 41° 20' 15" E., 4.12 feet, more or less, to the point of intersection thereof with a line drawn N. 70° 36' 15" W., from the point of beginning; thence leaving said Southeasterly boundary S. 70° 36' 15" E., to the point of beginning.

APN: 006-351-015

END OF DOCUMENT

Exhibit

4-C

LOG

**RECORDING REQUESTED BY:**

Chicago Title Company  
Escrow No.: 09-52503687-GW  
Locate No.: CACT17727-7727-4525-0052503687  
Title No.: 09-52503687-MM

**When Recorded Mail Document  
and Tax Statement To:**

Jacqueline Y. Trees  
1112 Montana Ave #238  
Santa Monica CA 90403

APN: 006-351-015

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**GRANT DEED**

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$951.50 *LP*

- ☒ X computed on full value of property conveyed, or  
☐ computed on full value less value of liens or encumbrances remaining at time of sale,  
☒ X City of Pacific Grove,

**FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,**

Rafaela Gutierrez, Trustee, or her successors in trust, under the Survivor's Trust established under the Gutierrez Family Trust, dated December 11, 1995 and Louis Daniel Gutierrez, Successor Trustee of the Gutierrez Family Trust dated December 11, 1995

**hereby GRANT(S) to**

Jacqueline Trees, Trustee of the Jacqueline Trees Living Trust dated May 20, 1996

**the following described real property in the City of Pacific Grove, County of Monterey, State of California:**

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The within document is executed in two counterparts for the purpose of facilitating its execution by the parties hereto. The two counterparts are to be construed and interpreted

DATED: September 8, 2009 as a single document

State of California }  
County of *San Luis Obispo* }  
On *Sept 8 2009* before me,  
*Olga Torres* Notary Public  
(here insert name and title of the officer), personally appeared  
*Rafael Gutierrez*

The Survivors Trust Established under the Gutierrez Family Trust, dated December 11, 1995

*Rafaela Gutierrez*  
Rafaela Gutierrez, Trustee

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

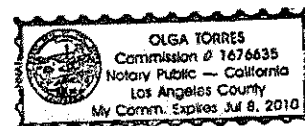
The Gutierrez Family Trust dated December 11, 1995

Louis Daniel Gutierrez, Trustee

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)



**MAIL TAX STATEMENTS AS DIRECTED ABOVE**



## Document Details

Document Number:	2009062533
Document Date:	10/02/2009
Pages:	3
Document Type:	006 - Deed
Reel/Page:	NA / NA
Parcel Number:	006351015
Transfer Tax:	\$951.50 - Pacific Grove

Grantor Names	Grantee Names
GUTIERREZ RAFAELA TR	TREES JACQUELINE TR
GUTIERREZ FAMILY TRUST	TREES JACQUELINE LIVING TRUST
GUTIERREZ LOUIS DANIEL TR	

[Back to document list](#)

ORDER COPY

## Unit Details

Unit Sequence Number: 1  
Unit Size (Sq. Ft.): 1813  
Number of Bedrooms: 3  
Number of Full Bathrooms: 2  
Number of Half Bathrooms: 0  
Number of Total Rooms: 10  
Number of Fireplaces: 0

## Unit Details

Unit Sequence Number: 1  
Unit Size (Sq. Ft.): 324  
Number of Bedrooms: 1  
Number of Full Bathrooms: 1  
Number of Half Bathrooms: 0  
Number of Total Rooms: 4  
Number of Fireplaces: 0

How do I get more information?

The information found in this database is updated regularly and originates from the Monterey County Assessor. Further details on property information can be attained by coming to the City of Pacific Grove Community Development Department, 300 Forest Avenue, Pacific Grove, CA 93940, during Planning Counter Hours, Monday-Friday 8 am to noon on business days, or by contacting the Monterey County Assessor directly. The Monterey County Assessor can be contacted as follows:

Monterey County Assessor  
168 West Alisal Street  
Salinas, CA 93902  
(831) 755-5035  
vagninis@co.monterey.ca.us  
www.co.monterey.ca.us/assessor

THE INFORMATION CONTAINED HEREIN WAS BELIEVED TO BE VALID AT THE TIME OF PUBLICATION. THE CITY OF PACIFIC GROVE RESERVES THE RIGHT TO MAKE CHANGES IN THE WEB SITE AT ANY TIME AND WITHOUT NOTICE. THE CITY OF PACIFIC GROVE ASSUMES NO LIABILITY FOR DAMAGES INCURRED DIRECTLY OR INDIRECTLY AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES. THE WEB SITE INCLUDES LINKS TO OTHER WEB SITES NOT CONTROLLED BY THE CITY OF PACIFIC GROVE. THE CITY OF PACIFIC GROVE TAKES NO RESPONSIBILITY FOR THE VIEWS, CONTENT OR ACCURACY OF THE OTHER SITES. NOR DOES IT ENDORSE ANY CONTENT OR PRODUCTS CONTAINED THEREIN.



ADDRESS: MEDICINE BUILDING RECORD

PARCEL 6-2-2

SHEET 3 OF 3 SHEETS

CLASS (STYLE) CONSTRUCTION STRUCTURAL EXTERIOR ROOF LIGHTING WIRING AIR CONDITION ROOM AND FINISH DETAIL

ARCHITECTURE

USE TYPE

1. Single  
2. Double  
3. Duplex  
4. Apartment  
5. Guest House  
6. Court  
7. Hotel

Light  
Sub Strong  
Stone Strong  
Above Strong  
Special

Frame  
Single Wall  
Siding  
Concrete Block

Stucco on  
Siding  
Alum Siding  
Wood Siding  
Shakes  
Stone  
Brick

Shingles  
Asph Shingles  
Wood Shingles  
Shakes  
Stone  
Brick

Alum Siding  
Steel Siding  
Screens

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Steel Siding  
Screens

CONSTRUCTION RECORD

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

EFFECTIVE YEAR

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

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Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

Per Prop. 71

EXHIBIT 1C

# RESIDENTIAL BUILDING RECORD

ADDRESS

PAGE 4

SHEET 1 OF 3 SHEETS

## DESCRIPTION OF BUILDING

CLASSIFICATION: CONSTRUCTION: STRUCTURAL: EXTERIOR: INTERIOR: ROOF: LIGHTING: AIR CONDITION: ROOM AND FINISH DETAIL

ARCHITECTURE

FOUNDATION

WALLS

FLOORING

CEILING

PAINT

MECHANICAL

ELECTRICAL

PLUMBING

HEATING

Cooling

Water

Gas

Oil

Electric

Other

None

Other

None

Other

None

Other

None

Other

None

Other

None





Ashley Hobson  
May 28, 2015  
Page two of three

### **Monterey County Tax Assessor Records Recognize Existence of Three Buildings and Four Dwelling Units**

There are two key features present in the subject units which indicate prior use as separate dwellings, kitchens and bathrooms. As of 1979, Monterey County Tax Assessor records confirm the subject property as having three buildings with a total of four kitchens and four bathrooms, as follows:

#### **Building One (The Original House)**

Building One is shown to have been built in 1946, to be a one story single family dwelling with three bedrooms, one bathroom, one kitchen, and a fireplace. This remains the current state of the front house. (Exhibit 1A, highlights added)

#### **Building Two (The Duplex)**

Building Two is shown to have been built in 1957, to be two stories, to have a total of three bedrooms, two bathrooms, and two kitchens. This remains the current state of the duplex located in the middle of the lot. The upper floor is recognized as having two bedrooms, one bathroom, and a kitchen, with the lower floor having one bedroom, one bathroom, and a kitchen. (Exhibit 1B, highlights added)

#### **Building Three (The Fourth Unit)**

Building Three is shown to have been built in 1978. April 25, 1979, The County of Monterey Tax Assessor documented Building Three as one story, with one bedroom, one bathroom, and a kitchen. This remains the current state of the fourth dwelling unit. (Exhibit 1C, highlights added)

The City's online property summary lists much of the same information with three buildings being identified, each with the same year built, the same number of bedrooms and bathrooms, as recorded by the Monterey County Tax Assessor. (Exhibit 1D)

#### **City of Pacific Grove Property File Investigation Form dated October 22, 1987**

The City of Pacific Grove property file for the subject property contains a Community Development Department Complaint and Investigation Form dated October 22, 1987 (Exhibit 2). This date is several years after the 1978 third building was completed, and just after the 1987 California Real Estate Disclosure Laws came into effect. The Form states that City records had shown one single family unit and a duplex, and that as of October 1987, there appeared to be an additional fourth unit at the premises. Coupled with the Monterey County Building Report records referenced above, this City Investigation form is further evidence that the property had a house, a duplex, and a fourth dwelling unit in existence, and that they continued to exist throughout the subject time period.

**23.64.360 Permitting of undocumented dwelling units.**

When the owner of a residential property within any residential zone, except the R-1-B-4 and M-H districts, discovers that one or more preexisting secondary dwelling units (including kitchen facilities) on his or her property are undocumented through no fault of his or her own, the owner is afforded an opportunity to remedy the undocumented status of the unit(s). Permitting of such unit(s) shall be limited to the location, size, and form of the unit(s) as they existed as of the effective date of this section.

In the absence of a city permit, the property owner shall provide: documentation that the unit(s) (including kitchen facilities) existed and were used as separate, independent dwelling unit(s) prior to January 1, 1987 (when the state Real Estate Disclosure Law went into effect); and documentation that the unit(s) existed prior to the current owner purchasing the property.

(a) Evidence that the undocumented dwelling unit(s) (including kitchen facilities) existed prior to January 1, 1987, shall include one or more of the following:

- (1) Tax records that show income from the unit(s) prior to that date.
- (2) Monterey County assessor's property tax information recognizing the unit(s) prior to that date.
- (3) Utility bills prior to that date if there were separate meters.
- (4) Personal references from tenants or neighbors verifying occupancy of the unit(s) prior to that date.
- (5) Property sales information prior to that date that notes the separate unit(s).
- (6) Other substantial evidence that similarly documents the existence of the unit(s) prior to that date.

(b) Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in subsection (a) of this section, plus one of the following:

- (1) Recorded deed demonstrating the date of purchase by the current owner.
- (2) Other substantial evidence that similarly documents the date of purchase by the current owner.

(c) Before applying for permitting of an undocumented unit, the owner shall also:

(1) Have an inspection of the undocumented unit(s) by the building official to verify that there are no health and life safety conditions that render the unit(s) unsafe, and correct any unsafe conditions required by the building official.

(2) Obtain the final building inspection record, including inspection sign-off of any corrections required.

(3) For undocumented units created after March 1, 1985, obtain verification from the Monterey Peninsula Water Management District of legal water fixture units through use of on-site water credits.

(d) Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation.

(e) Conditions placed on second units pursuant to Chapter 23.80 PGMC shall not apply to undocumented units permitted through this process. [Ord. 13-005 § 2, 2013].



**Applicant hereby responds to the FACTS and FINDINGS listed in the City of Pacific Grove Community Development Department staff report. Staff statements are in italics. FACTS (as stated by City of Pacific Grove Community Development Department)**

*1. The subject site is located at 210 17 Mile Drive Pacific Grove, CA 93950 APN 006-351-015*  
Applicant has no current objection to the statements in FACT #1.

*2. The subject site has a designation of High Den 29.0 Du/ac on the adopted City of Pacific Grove General Plan Land Use Map.*

Applicant has no current objection to the statements in FACT #2.

*3. The project site is located in the R-4 zoning district.*

Applicant has no current objection to the statements in FACT #3.

*4. Multi-family units are permitted with a Use Permit per PGMC section 23.28.020(c).*

Applicant has no current objection to the statements in FACT #4.

*5. Per section 23.64.190 parking requirements for the single-family residence is two covered, for the two-bedroom additional dwelling unit one covered and one uncovered and for the two one bedroom units one and a half off street parking shall be provided.*

Applicant objects to the statement in FACT#5 as City Code §23.64.190 has no legal bearing or relevance to this application.

*6. The subject site is approximately 8,400 square feet.*

Applicant has no current objection to the statements in FACT #6.

*7. Architectural Permit No. 49 dated December 9, 1964 allowed the conversion of the garage in to a third unit creating the exiting duplex.*

Applicant has no current objection to the statements in FACT #7.

*8. The subject property received a Variance No. 78-378 in 1978 to permit a reduction in a required side and rear setbacks to allow the applicant to construct a workshop.*

Applicant has no current objection to the statements in FACT #8.

*9. The subject site is developed with a 1,230sf single family residence, a 1,830sf duplex and an approximate 324 sf unpermitted unit.*

Applicant states, and the City's property file indicates, the referenced 324 square feet of structure was permitted as a building, however not as a dwelling unit.

*10. On October 22, 1987 a code violation was opened because of the unpermitted unit.*

Applicant objects to the statement in FACT#10 as it has no legal bearing or relevance to this application. Additionally, Applicant found an investigation report dated October 22, 1987 in the City's property file indicating there appeared to be "an additional" unit, but no other evidence that a code violation was opened or remained pending.

*11. An inspection dated September 12, 2014 confirmed the code violation had not been resolved. Compliance was required by January 12, 2015*

Applicant objects to the implication that as of September 12, 2014, a code violation had been pending since October 22, 1987, or that the inspection of September 12, 2014 was related to the October 22, 1987 investigation report. The September 2014 inspection was precipitated by information provided to the City by a former tenant of the subject property in 2014, and there was no pending code violation action at that time.

### **Building Two (The Duplex)**

Building Two is shown to have been built in 1957, to be two stories, to have a total of three bedrooms, two bathrooms, and two kitchens. This is the current state of the duplex located in the middle of the lot. The upper floor has two bedrooms, one bathroom, and a kitchen while the lower floor has one bedroom, one bathroom, and a kitchen. (Exhibit 1B, highlights added)

### **Building Three (The Fourth Unit)**

Building Three is shown to have been built in 1978. As of the final Tax Assessor reassessment on April 25, 1979, The County of Monterey Tax Assessor documented Building Three as one story, with one bedroom, one bathroom, and a kitchen. This is the current state of the fourth dwelling unit. (Exhibit 1C, highlights added)

The City's online property summary lists much of the same information with three buildings being identified, each with the same year built, number of bedrooms, bathrooms, and kitchens, as indicated by the Monterey County Tax Assessor's records. (Exhibit 1D)

§23.64.360 (b) also requires:

Evidence that the unit(s) (including kitchen facilities) existed prior to the current owner purchasing the property shall consist of the evidence in subsection (a) of this section, plus one of the following:

- (1) Recorded Deed demonstrating the date of purchase by the current owner.

Applicant's grant deed, dated October 2, 2009 (attached as Exhibit 4), proves she purchased the property long after the dwelling units were created.

Section 23.64.360(c) then requires, before applying for permitting of an undocumented unit, an inspection of the undocumented unit by the building official to verify that there are no health and life safety conditions that render the unit unsafe, and correct any unsafe conditions required by the building official. On or about October 27, 2015, after Applicant's evidence had been deemed sufficient, Applicant requested the scheduling of the building official inspection. The CDD would not allow Applicant to obtain the building official inspection prior to filing an application, so Applicant filed this application at that time. A building inspection has been done. In accordance with Monterey Peninsula Water Management District regulations, City Code §23.64.360(c)3 exempts dwelling units created prior to March 1, 1985 from having to obtain verification of onsite water unit credits from the MPWMD. Applicant's uncontroverted evidence shows all necessary water fixtures were in existence prior to March 1, 1985. Therefore, all that is left for Applicant to fulfill the requirements of §23.64.360 is to correct any unsafe conditions and obtain inspection sign-off. Then, according to §23.64.360 (d), "Upon completion of the above steps, the owner shall submit to the community development department a short application for a staff approval, with the above evidence and documentation."

City Code §23.64.360 came into effect with the passing of Ordinance No. 13-005. In the Resolution Findings of Ord. No. 13-005 it states in part:

One of the key goals of the Housing Element is to *"Provide diverse, high quality housing choices appropriate for residents at all levels of income."*

Program 2.3.12, requires the City to *"Evaluate the feasibility of reinstating the Illegal Housing Unit Registration Program if the units*