



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

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Ben Harvey, City Manager
MEETING DATE: September 6, 2017
SUBJECT: Short-Term Rental Program Conceptual Review
CEQA STATUS An Initial Study and Negative Declaration has been prepared and reviewed by the public, to be adopted at 1st Reading of the Ordinance.

RECOMMENDATION

1. Review the Initial Study and Negative Declaration of proposed changes to the Short-Term Rental Program (Attachment A).
2. Direct City staff to prepare an ordinance adopting recommendations for the regulation and management of short-term rentals, and set the Negative Declaration for Adoption.

BACKGROUND

On June 28, 2017, the City Council held a Special Meeting to evaluate the Short-Term Rental Program and review staff recommendations for regulation and management of Short-Term Rentals (STR). While the City Council informally affirmed continuation of the program and supported in concept some staff recommendations for potential program revision, the Council directed staff to reassess issues concerning density and code enforcement, among other requests. On July 19, 2017, the City suspended processing new STR applications to avoid adding approved uses that may later be limited by new regulations. Subsequently, on July 27, 2017, staff drafted an Initial Study and Negative Declaration based on CEQA guidelines and circulated these for public review. Lastly, on August 17, 2017, staff presented a report to the Planning Commission to facilitate review of the STR program and to solicit feedback on additional proposed program changes.

DISCUSSION

At the June 28th City Council meeting, the Council informally indicated, through a non-binding straw poll, the Short-term Rental Program should continue, and discussed staff's recommendations for program revisions. The City Council supported consolidating the STR Type A and B STR licenses, and implementing a 250 City-wide license cap. The Council also supported, in concept, the staff-recommended fifty-five (55') foot radius approach (also referred to as the "Zone of Exclusion" approach) to address density, with the expressed concerns that the fifty-five (55') foot radius might not be an adequate buffer to address STR overconcentration and related density issues. Other areas of concern discussed included the STR code enforcement process, and STR impacts on long-term housing and hotel/motel occupancy rates. The Council directed staff to present alternative radius areas for Council consideration. The Council also directed staff to review the STR code enforcement process and reexamine impacts STRs have on hotels, motels and long-term housing stock.

On July 27, 2017, staff drafted an Initial Study and Negative Declaration (IS/ND) based on CEQA guidelines and circulated these for public review. Further, on August 17, 2017, the Planning Commission also reviewed program impacts and discussed additional staff-recommended program changes to provide advisory feedback to the Council for consideration. Cumulative recommended program changes and staff findings are outlined below:

LICENSE TYPE

The City Council, the Planning Commission and City staff recommend discontinuing all Type B STR licenses and maintaining only one type of STR License. The proposed new license would regulate short-term rental of an entire dwelling unit for unlimited nights each year. Home Sharing Licenses, also known as “Room Rentals”, would continue as they currently stand, without any changes.

CAP

The City Council, the Planning Commission and City staff recommend limiting the number of all STR licenses to a 250 City-wide cap, with no sub-allocation by zoning district.

DENSITY

The primary issues driving density concerns are the number of STR licenses per parcel, the number of STRs per block and/or street, and the number of STRs that surround individual homes. While there is general consensus to limit STR licenses to one per parcel¹, measures to regulate STR density remain open for discussion. At the June 28th meeting, the City Council supported, in concept, the staff-proposed 55-foot radius approach (also referred to as the “Zone of Exclusion”) as shown in Figure 1 below. However, the Council expressed concerns that the 55-foot linear distance separation would not adequately address STR overconcentration. Therefore, the Council directed staff to consider alternative radiuses, and to provide additional examples for Council consideration. Accordingly, alternative radius examples are included within Attachment B to this agenda report.

Figure 1: Staff-recommended 55 foot radius approach



At the August 17, 217 meeting, the City staff presented to the Planning Commission an additional option to address density concerns. This proposal recommended keeping the current STR program’s 15 percent per block rule², with an additional zone of exclusion (shown in Figure 2) for new licenses. The Planning Commission recommended this approach, and also recommended addressing density concerns on blocks

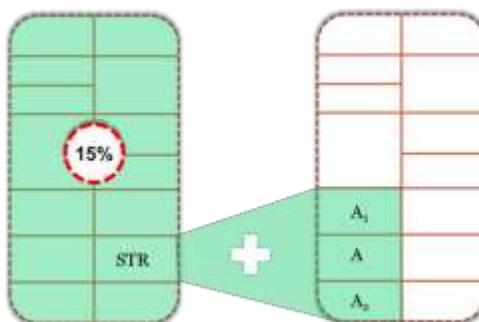
¹ Except a property governed by the duly adopted bylaws of a city-approved homeowners’ association (HOA), or to properties held as tenants in common.

² PGMC Sections 7.40.025 (b)(3)(4): The existing 15 percent per block rule limits the number of Type A STR licenses to 15 percent of the total number of parcels on a block. In case where density exceeds the 15 percent, all existing Type A STR licenses on that block are limited to 150 rental nights.

where density exceeds 15 percent through attrition and subjecting any additional STRs to a merit-based checklist or lottery. As stated previously, all Planning Commission STR program recommended modifications to the City Council are advisory in nature, and not binding. Further, it must be noted that the merit-based checklist reviewed by the Planning Commission has since been removed from further consideration due to concerns regarding subjectivity.

A summary of the City Council, Planning Commission, and a third density approach is offered below.

Figure 2: Planning Commission recommended 15% block density plus additional zone of exclusion approach



Option 1: Original Zone of Exclusion Approach

The City Council expressed approval, in concept, for a radius area to address and limit overconcentration of STRs. City staff recommended a 55-foot radius drawn from the STR parcel lines that would exclude additional STRs within the highlighted buffer zone (therefore referred to as the “Zone of Exclusion”), shown in Figure 3. This proposed approach intended to prevent homes from being surrounded by STRs. At the June 28 City Council meeting, the City Council asked for additional radius sizes for consideration: 40’, 50’, 55’, 60’, and 70’. Examples of these additional sizes are included within Attachment ‘B’ to this agenda report. City staff added additional radius sizes of 80’, 90’, 100’, and 110’ to this list for consideration. After extensive analysis, staff determined the 100’ radius distance best prevents “sandwiching”, wherein despite the “Zone of Exclusion” approach, a home may nevertheless still end up with an STR on either side of it.

Figure 3: 55 foot radius “Zone of Exclusion” approach



Option 2: 15 percent plus additional zone of exclusion – Planning Commission Approach

The Planning Commission supported amending the current STR program’s 15 % block density rule³ with an additional area of exclusion for new licenses. The Planning Commission recommended addressing density concerns on the existing 17 blocks where density currently exceeds 15 percent through attrition and sunseting of STRs through use of a checklist. However, as previously stated, the

³ PGMC Sections 7.40.025 (b)(3)(4): The existing 15 percent per block rule limits the number of Type A STR licenses to 15 percent of the total number of parcels on a block. In a case where density exceeds the 15 percent, all existing Type A STR licenses on that block are limited to 150 rental nights.

subjective checklist appears to be legally flawed, and is no longer recommended for further consideration. The Planning Commission recommends commercially zoned properties, as well as properties on Mermaid Ave and Ocean View Blvd between Lorelei St and Sea Palm Ave, be exempt from any density exclusions. However, the Planning Commission recommended licenses issued in the exempt areas should nonetheless count toward the cap limit.

City staff does not recommend exempting STR licenses from the overall cap by specific street and/or within the commercial zone. As previously stated, the Planning Commission's recommended STR program revisions are advisory, and not binding for the City Council.

Option 3: No change – keep the existing 15 percent rule

Alternatively, by maintaining the status quo on density but by also adopting other restrictions mentioned earlier, reduced density could be achieved. For the 17 blocks where density exceeds the proposed standard, sun-setting the second or third license on the same parcel will reduce density. Attrition could also be achieved through suspension of idle licenses as required by the current regulations⁴. Last year alone, 40 owners elected to not renew their STR license. In prior years, staff estimates this number of non-renewals at 10-20 STRs per year. Should the City Council adopt this approach moving forward, new licenses will not be issued on blocks where density is already at 15 percent.

CODE ENFORCEMENT IMPROVEMENTS

The current code enforcement system involves receiving complaints via a variety of platforms: hotline calls, online complaint submittals, email and phone calls. Each call and complaint is reviewed. While staff investigates and takes action as appropriate, it is frequently difficult to confirm or verify most complaints as they come in after the fact. Staff considers a complaint verified if one of the following applies:

1. Staff has conducted a site inspection and confirms a violation, e.g. trash, parking, etc.
2. The Police Department has been contacted and the Police confirm they responded to the property site and confirmed the complaint, e.g. after hours (10:00 p.m.) noise, large groups of people at the property, etc.
3. A Property Manager or owner representative confirms that a violation occurred.

Other less visible methods of code enforcement are also deployed. For example, staff routinely scans on-line platforms to identify unlicensed properties. When an unlicensed property is discovered, a notice is sent to the owner requesting more information. This effort may take up to 30 days. If an owner challenges the notice, the effort may extend several months. Once a determination is made that the property has been rented on a short-term basis without a license, the City requests an accounting of the rental activity. The owner has up to 30 days to comply with this request. Upon receipt of the accounting, staff assesses past due taxes, fees, penalties and fines. Then, a "Final Notice and Amount Due" is sent to the owner. Some owners attempt to negotiate this final notice; many owners pay the amounts due and apply for a license.

Many complaints are difficult to verify, and accordingly, staff believes better measures may be put in place for code enforcement. Staff recommends adding language under PGMCS7.40.090 (Renewal license) whereby objective measures, such as number of verified complaints for occupancy violations,

⁴ PGMCS Section 7.40.090 - Renewal license – maintains that a site that has not been used for transient use during the preceding 12 months shall cause nonrenewal of a STR Type A license.

trash receptacles left out beyond pick up day, large group gatherings beyond the occupancy limits etc. could be tallied and reviewed to determine whether a license should be revoked. One proposal is that properties that have compiled two or more of such verified complaints within a set period will fail to meet the renewal criteria.

It should be stated that the City receives no complaints for the majority of licensed properties. It should also be stated that some concerned neighbors identify problems and concerns that also apply to long-term tenants and that are not unique to STRs (for example, parking concerns). For STR properties to be held to a higher standard, there must be legal basis for this with a clear nexus between the regulated behavior and impacts uniquely caused by STRs. Finally, City staff understands and acknowledges some individuals are reticent to register a complaint, or to advise the City of an STR concern. This complicates code enforcement at times, because in some instances, the City is simply unaware of a potential issue or problem.

Suggested code enforcement improvements include better communication with property owners/property managers whenever complaints are received. Communication could further be improved through the sharing of emergency contact information with neighbors through the neighborhood notice. Alternatively, the City could consider requiring STR owners to post a placard in the front window of the house to display the number of authorized occupants allowed on the property, as well as the telephone number for the property manager. This approach has worked in other communities, and improves accountability while reducing the burden on City staff for complaints that may better be resolved by the owner and/or property manager (and not the City).

An additional code enforcement suggestion is to assign letter grades (A through F) to properties based upon the number of complaints received. Under this proposal, the letter grade would be made known only to the license holder, and would not be displayed at the property. Properties assigned certain letter grades (such as D or F) would not qualify for license renewal.

Additional code enforcement action, other citations, and potential revocation or non-renewal of licenses brings an increased possibility that appeals will occur.

STR COMMUNITY IMPACT

When the City Council adopted the STR program last year, it required (section 6 of Ordinance 16-007) that the Planning Commission review effects of the current ordinance and submit recommendations to the City Council as to amendments that might be appropriate. On August 17, 2017, staff presented a report to the Planning Commission to obtain review of the STR program and to solicit feedback on proposed program changes. The STR's impact findings presented to the Planning Commission are briefly described below:

Impact to Affordable Housing

Of the estimated 7,603 housing units in Pacific Grove, 283 are licensed as Short-Term Rentals; this equates to approximately 3.7% of the total number of housing units. City staff recently administered a non-scientific, informal online survey to the 233 existing Type A STR license holders to solicit feedback as to whether they would rent their STR property on a long term basis if the City terminated the program. City Staff received 127 responses to the survey. Of those received, 5.5 percent indicated they would return their property to the long-term housing market, while the remaining STR property owners

indicated they would keep their property vacant, or sell the property. Figures 4 and 5 below show the survey results.

Figure 4: STR Survey Findings
Which of the following best describes your STR property?

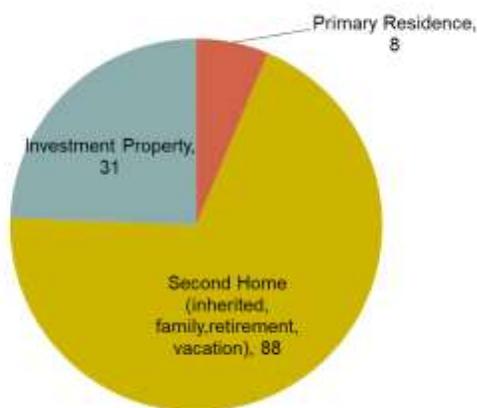
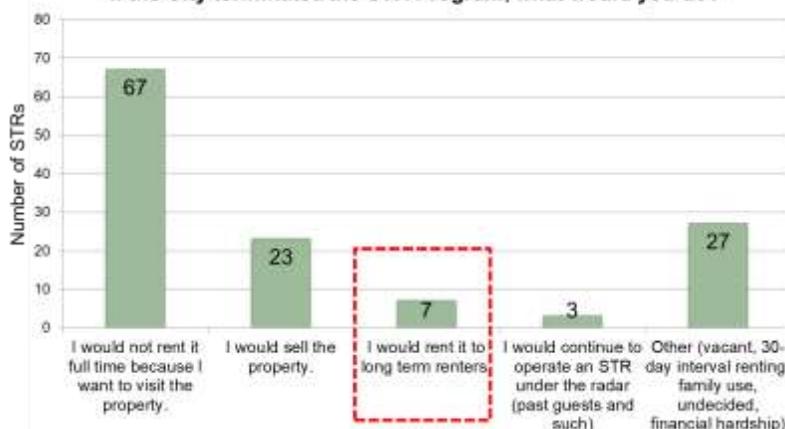


Figure 5: STR Survey Findings
If the City terminated the STR Program, what would you do?



Impact to Hotel/Motels/Inns

Over the past two years, the occupancy rate for hotels/motels/inns has declined by approximately one percent, while the occupancy rate for short-term rentals has increased. Transient occupancy tax (TOT) revenue has increased in both commercial (hotels/motels/inns) and residential (short-term rental) categories.

Impact to Neighborhoods

Data or survey information providing this information is currently unavailable. If the City Council would like to determine this information, and/or desires comprehensive analysis regarding the STR program impact to affordable housing and/or impact to hotels/motels/inns, it is recommended that specific, objective questions be identified and an independent 3rd party subject-matter expert be commissioned to conduct a study.

STR LOTTERY AND LICENSE SUNSET PROVISIONS

With the proposed all-inclusive cap and density provisions, a mechanism is needed to determine which licenses remain, and which are to be terminated. It is recommended that STR properties found not to meet density requirements be subject to a lottery administered by a contracted, independent third party with appropriate expertise. It is further recommended that the lottery be conducted with ample time

prior to annual license renewal to best allow for planning purposes for those participating. Finally, it is proposed that those license holders not chosen by the lottery be allowed to continue their license for a time-specific period (6 months, 1 year, etc.) that is pre-determined with ample notice provided prior to the lottery.

GOAL ALIGNMENT

Neighborhoods

FISCAL IMPACTS

The City receives approximately \$1M annually in residential transient occupancy (TOT) tax through the short-term rental program. At the time that this agenda report is written, the City's program expenditures are not precisely known. Eliminating the STR program, or extensive modifications to the existing STR program to reduce density and establish a cap will potentially lower the City's current residential TOT receipts in an amount that cannot now be calculated.

ATTACHMENTS

- A- Draft Initial Study and Negative Declaration
- B- Radius Illustrations

RESPECTFULLY SUBMITTED:



Ben Harvey,
City Manager



CITY OF PACIFIC GROVE
300 FOREST AVENUE
PACIFIC GROVE, CALIFORNIA 93950
TELEPHONE (831) 648-3190 • FAX (831) 648-3184

Notice of Intent to Adopt a Negative Declaration

Project Title: Transient Use of Residential Property Code Amendment

Lead Agency/Owner/Applicant: City of Pacific Grove/

Project Location: Citywide

APN: Citywide

Permit Type: Code Amendment

Project Description: The proposed project is an amendment to the City's regulations regarding transient use of residential property.

Public Review Period: 07/31/2017 through 08/30/2017 at 5pm

Address Where Written Comments Should be Sent:

Terri C. Schaeffer, Program Manager

City of Pacific Grove, 300 Forest Avenue, Pacific Grove, CA 93950

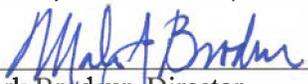
E-mail: tschaeffer@cityofpacificgrove.org

City's website at <http://www.cityofpacificgrove.org/living/community-economic-development/planning/ceqa-california-environmental-quality-act>

Negative Declaration

Notice is hereby given that the project described above has been reviewed in accordance with the State of California Public Resources Code, the California Environmental Quality Act, the Pacific Grove General Plan, and Title 7.40 of the Pacific Grove Municipal Code. Based on this review, a Proposed Negative Declaration is hereby made on this project. The reason for this determination is that the project will not result in significant adverse impacts to the environment. The proposed Negative Declaration and Initial Study are on file at the Community Development Department, 300 Forest Avenue, Pacific Grove, California, 93950 (831) 648-3190 and on the City's website at: <http://www.cityofpacificgrove.org/living/community-economic-development/planning/ceqa-california-environmental-quality-act>

A public hearing on the proposed Code Amendment and Negative Declaration is tentatively scheduled to be held by the City Council on September 6, 2017 at 6:00 p.m. at Pacific Grove City Hall, 300 Forest Avenue, Pacific Grove, CA 93950.



Mark Brodeur, Director
Community and Economic Development Department

7/26/17

Date

City of Pacific Grove Initial Study / Environmental Checklist

I. PROJECT SUMMARY

1. **Project title:** Transient Use of Residential Property Code Amendment
2. **Lead agency name & address:** City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950
3. **Contact person & phone number:** Mark Brodeur, Community & Economic Development Director
831-648-3189
4. **Project location:** City of Pacific Grove (citywide)
(see Exhibit 1)
5. **Project sponsor's name & address:** City of Pacific Grove
300 Forest Avenue
Pacific Grove, CA 93950
6. **General Plan designation:** NA (citywide)
7. **Zoning:** NA (citywide)
8. **Project Description:**

The proposed project is an amendment to the City's regulations (Pacific Grove Municipal Code [PGMC] Chapter 7.40) regarding transient use of residential property.

Background. In 2016, PGMC Chapter 7.40 and Chapter 23.64 were amended by Ordinance 16-007 to regulate transient use of residential property within residential zones, and require those sites to hold an annual license from the City. The transient use licensing program, coupled with enhanced enforcement, was intended to regulate and control this activity. The City Council requested a review of the Short Term Rental Program based on the Code amendments in one year. The proposed ordinance would amend PGMC Chapter 7.40 in order to make the program more effective in accomplishing the City's objectives.

Analysis of Potential Environmental Impacts of the Project. This Initial Study/Negative Declaration ("IS/ND") evaluates the potential environmental impacts of the proposed revisions to the City's regulations for transient residential use. Certain aspects of the proposed amendments do not require environmental analysis under CEQA. For example:

- CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies unless those charges would be used to fund capital projects (CEQA Guidelines Sec. 15273). Therefore, establishment or changes to City administrative fees associated with issuance of permits or licenses for the short-term rental of existing housing units do not require CEQA review.
- Inspections to check for performance of an operation, or quality, health, or safety of a project are exempt from CEQA pursuant to Guidelines Sec. 15309.

- City actions to enforce or revoke a license or other entitlement for use or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency are exempt from CEQA review pursuant to Guidelines Sec. 15321.
- Pursuant to CEQA Guidelines Sec. 15378, “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. “Project” does not include “*Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.*” Therefore, some aspects of the proposed regulations represent administrative activities that are not subject to CEQA review.
- In evaluating potential economic or social effects of the proposed regulations, this IS/ND reflects CEQA Guidelines Sec. 15382, which states:

“Significant effect on the environment” means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant. (emphasis added)

Economic or social changes (such as a reduction in property values or effects on neighborhood social interactions) are not considered to be significant environmental impacts under CEQA unless those changes contribute to a significant physical impact. It is important to note that CEQA analysis represents one factor in the City Council’s decisions regarding transient use regulations; however, the Council may consider factors other than environmental impacts, such as economic or social impacts, in reaching its final decision.

Exhibit 2 summarizes the proposed changes to City regulations and the City’s determination as to whether these changes have the potential to result in physical environmental impacts, and therefore require environmental analysis pursuant to CEQA. Changes that could result in potential environmental impacts are analyzed in the Environmental Checklist and related discussion (Section II below), while those changes that are exempt from CEQA review for the reasons described above are not addressed further in this IS/ND.

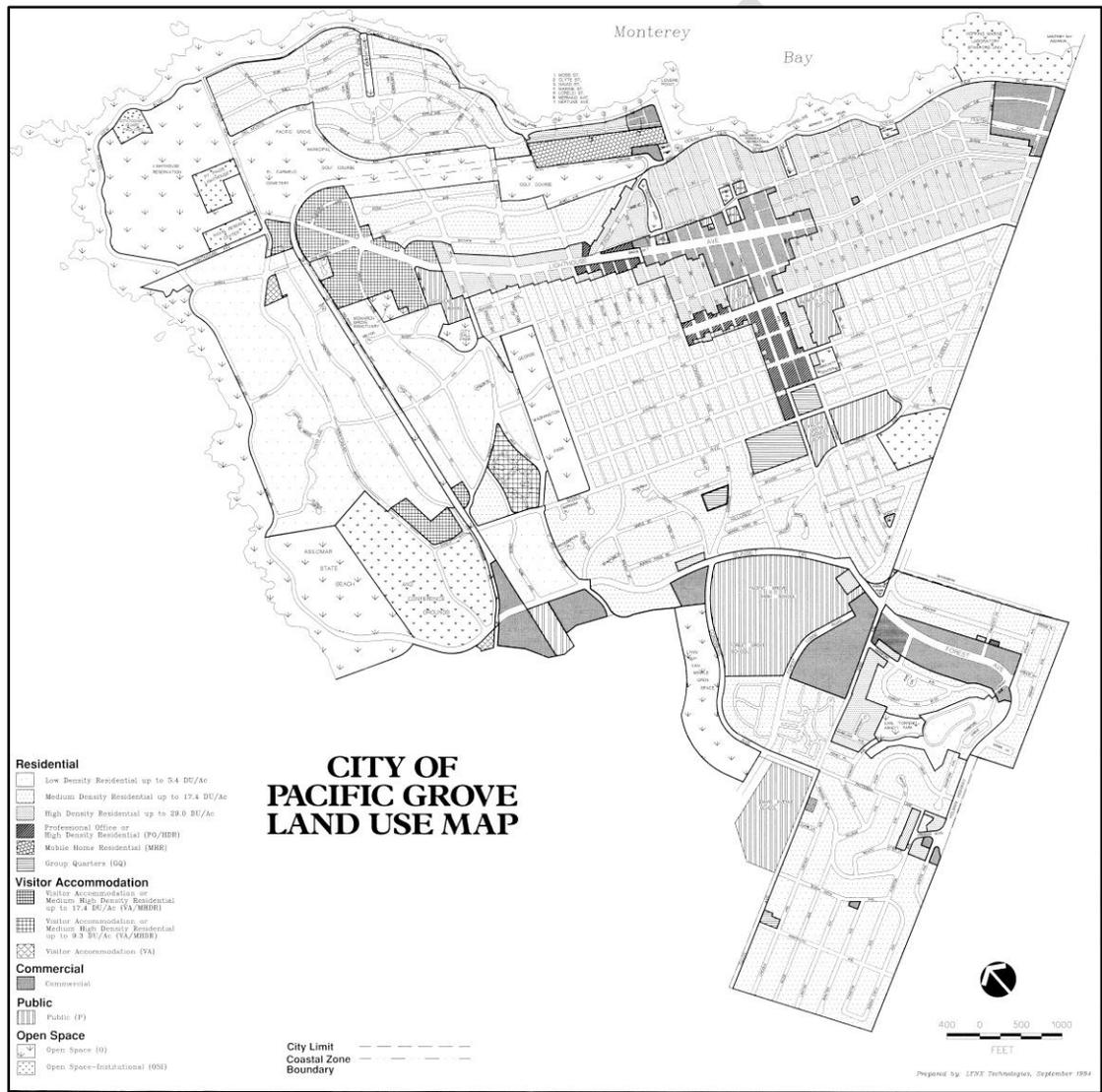
9. **Surrounding land uses and setting:**

Various (citywide)

10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)**

California Coastal Commission

Exhibit 1 Project Location



**Exhibit 2
Summary of Proposed Changes and Potential Environmental Impacts**

Municipal Code Section	Proposed Changes	Do the Proposed Changes Have the Potential to Result in Physical Environmental Impacts?
7.40.010 Definitions	Eliminates the distinction between “Type A” and “Type B” short-term rentals based on whether the property owner resides at the site and the number of days per year the unit is available for short-term guests.	Yes. These definitions would be used in determining whether license caps and density limits are applicable and are analyzed in the Environmental Checklist in connection with Sec. 7.40.25 of the proposed ordinance.
7.40.020 Allowed Use	Subsection (b) Deletes an obsolete provision for the expiration date for licenses on March 31, 2017.	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
	Subsection (c) Deletes a reference to different classes of licenses.	Yes. This change cross-references the definitions listed in Sec. 7.40.010 and is analyzed in the Environmental Checklist in connection with Sec. 7.40.25.
	Subsection (c) [formerly Subsection (d)] makes a clerical change in the name of an agreement.	No. The proposed change would make a clerical change to administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
	Subsection (d) [formerly Subsection (e)] clarifies the review authority for inspection reports.	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
	Subsection (e) [formerly (f)] amends notice requirements for license applications.	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
7.40.025 License Caps & Density Limits	Subsection (a) eliminates the distinction between Type A and Type B licenses for purposes of the limit on the total number of licenses that may be issued.	Yes. These provisions are analyzed in the Environmental Checklist.
	Subsection (b) modifies the density limit for STR licenses.	Yes. These provisions are analyzed in the Environmental Checklist.
7.40.030 Limits on Transient Use	Deletes Subsection (h) regarding the maximum number of persons that may attend a gathering at a short-term rental property.	Yes. These provisions are analyzed in the Environmental Checklist.
7.40.060 Separate Properties	Deletes this section regarding separate STR licenses for each dwelling unit.	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
7.40.060 Contents of Licenses (formerly	Subsection (b) eliminates the distinction between types of licenses	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment;

**Exhibit 2
Summary of Proposed Changes and Potential Environmental Impacts**

Municipal Code Section	Proposed Changes	Do the Proposed Changes Have the Potential to Result in Physical Environmental Impacts?
7.40.070)		therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
7.40.070 Application - First License (formerly 7.40.080)	Subsection (b) clarifies license application requirements.	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
7.40.110 Evidence of transient occupancy of residential property	Makes clerical revisions to procedural license requirements.	No. The proposed change would clarify administrative licensing requirements and would have no effect on the physical environment; therefore, no analysis is required. (CEQA Guidelines Sec. 15378)
7.40.180 License denial or revocation	Makes clerical revisions to license denial or revocation procedures.	No. This provision would amend administrative license denial and revocation procedures and is exempt from CEQA review. (CEQA Guidelines Sec. 15321)

DRAFT

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a 'Potentially Significant Impact' as indicated by the checklist on the following pages.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture & Forest Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a 'Potentially Significant Impact' or 'Potentially Significant Unless Mitigated' Impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or Mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Mark Brodeur

Printed name

Date

Director of Community and Economic Development

Title

II. ENVIRONMENTAL CHECKLIST

- 1) A brief explanation is required for all answers except 'No Impact' answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A 'No Impact' answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A 'No Impact' answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. 'Potentially Significant Impact' is appropriate if there is substantial evidence that an effect may be significant. If there are one or more 'Potentially Significant Impact' entries when the determination is made, an EIR is required.
- 4) 'Negative Declaration: Less Than Significant With Mitigation Incorporated' applies where the incorporation of mitigation measures has reduced an effect from 'Potentially Significant Impact' to a 'Less Than Significant Impact.' The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, 'Earlier Analyses,' may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are 'Less than Significant with Mitigation Measures Incorporated,' describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) the significance criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significance.

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
I. AESTHETICS –Would the project:				
a) Have a substantial adverse effect on a scenic vista?			X	
(a) Less Than Significant Impact. Exceptional scenic vistas are present in Pacific Grove. However, the City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects of the construction of new structures and remodeling of existing structures on these vistas. The proposed amendment would not change these requirements, nor would a change in the term of residential occupancy result in a substantial change to scenic vistas; therefore, impacts would be less than significant. No mitigation measures are required.				
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
(b) Less Than Significant Impact. Exceptional scenic resources are present in Pacific Grove. However, the City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects of the construction of new structures and remodeling of existing structures on these resources. The proposed amendment would not change these requirements, nor would a change in the term of residential occupancy result in a substantial change to scenic resources; therefore, impacts would be less than significant. No mitigation measures are required.				
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
(c) Less Than Significant Impact. Attractive visual character is a hallmark of Pacific Grove. Existing regulations require that transient use sites (1) shall be used and maintained in a manner consistent with the character of the neighborhood, (2) shall not impair the desirability of investment or occupation of the surrounding neighborhood, and (3) shall not have displayed thereon any sign that indicates the property is used or available for transient or short-term rental purposes (PGMC Sec. 7.40.030.c) and failure of owners to comply with these requirements shall be grounds for denial or revocation of a transient use license. These existing requirements substantially reduce the potential for transient use sites to degrade the visual character or quality of the surrounding neighborhood, and no change to these requirements is proposed; therefore, impacts would be less than significant. No mitigation measures are required.				
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	
(d) Less Than Significant Impact. The proposed amendment would not authorize any new development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects of light and glare generated by residential uses. The proposed amendment would not change these requirements, nor would a change in the term of residential occupancy result in a substantial increase to light and glare; therefore, impacts would be less than significant. No mitigation measures are required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
II. AGRICULTURE AND FOREST RESOURCES – Would the project:				
<i>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and the forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board.</i>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined in Public Resources Code section 4526)				X
d) Result in loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X
(a-e) No Impact. There are no agricultural or forestry resources in the city; therefore, the proposed amendment would have no impact on agriculture or forest resources. No mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
III. AIR QUALITY – Would the project:				
<i>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.</i>				
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	
<p>(a–e) Less than Significant Impact. Air quality emissions are typically comprised of short-term construction emissions and long-term operational emissions.</p> <p><u>Short-term Construction Emissions</u> The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects due to construction emissions. No new development would be authorized by the proposed amendment; therefore, the impacts on short-term construction emissions or odors would be less than significant. No mitigation measures are necessary.</p> <p><u>Long-term Operational and Mobile Source Emissions</u> The proposed ordinance would not authorize new development, change land use intensity or development standards, or result in a substantial change in vehicle-miles-traveled (VMT); therefore, there would not be a substantial increase in long-term operational emissions from area sources (e.g. energy use) and/or from mobile sources. Impacts to long-term operational and mobile source emissions would be less than significant and no mitigation measures are required.</p>				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
IV. BIOLOGICAL RESOURCES –				
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X
(a-f) No Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects on biological resources. Therefore, the proposed project would not result in significant impacts and no mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
V. CULTURAL RESOURCES – Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?				X
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?				X
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				X
d) Disturb any human remains, including those interred outside of formal cemeteries?				X
(a-d) No Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects on cultural resources. Therefore, the proposed project would not result in significant impacts and no mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and				X

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
Geology Special Publication 42.				
ii) Strong seismic ground shaking?				X
iii) Seismic-related ground failure, including liquefaction?				X
iv) Landslides				X
b) Result in substantial soil erosion or the loss of topsoil?				X
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18- 1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
(a-e) No Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects on geology and soils. Therefore, the proposed amendment would not result in significant impacts and no mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
VII. GREENHOUSE GAS EMISSIONS – Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?			X	
(a-b) Less Than Significant Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development, increase land use intensity, or result in a substantial change in vehicle-miles-traveled (VMT). The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects related to greenhouse gasses. Therefore, potential impacts of the proposed project would be less than significant and no mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
VIII. HAZARDS AND HAZARDOUS MATERIALS –				
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X
(a-h) Less Than Significant Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects related to hazards and hazardous materials. The nearest airport (Monterey Regional Airport) is approximately 3 miles east of the City limits. Therefore, the proposed project would result in no impacts and no mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
IX. HYDROLOGY AND WATER QUALITY – Would the project:				
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
j) Inundation by seiche, tsunami, or mudflow?			X	
(a-j) Less Than Significant Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. The City's existing development regulations codified in the Pacific Grove Municipal Code and Local Coastal Program adequately address potential effects related to hydrology and water quality. Therefore, potential impacts of the proposed project would be less than significant and no mitigation measures are necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
X. LAND USE AND PLANNING – Would the project:				
a) Physically divide an established community?			X	
(a) Less Than Significant Impact. The proposed amendment would revise regulations for the short-term rental of existing dwelling units and would not authorize additional development. Therefore, the project would not physically divide established communities in Pacific Grove. No mitigation measures are necessary.				
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
(b) Less Than Significant Impact. Applicable land use plans, policies or regulations include the Municipal Code, the General Plan and the Local Coastal Program.				
<p><u>Pacific Grove Municipal Code</u> The proposed project would amend portions of Chapter 7.40 of the Pacific Grove Municipal Code to revise existing regulations for the short-term rental of residential property. These revisions would not result in significant physical impacts on the environment, as discussed elsewhere in this Initial Study.</p> <p><u>Pacific Grove General Plan</u> The Pacific Grove General Plan provides a framework for future growth and development within the city. The Land Use Element includes goals and polices calling for orderly, well-planned, and balanced development consistent with the historic nature of Pacific Grove, the capacity of the city's infrastructure, and ability to assimilate new growth. General Plan land use policies relevant to the proposed project include the following:</p> <p style="padding-left: 40px;">Policy 2. Ensure that new development is compatible with adjacent existing development.</p> <p style="padding-left: 40px;">Policy 3. Balance a property owner's ability to develop with the desirability of maintaining neighborhood character.</p> <p style="padding-left: 40px;">Policy 15. Encourage land uses that generate revenue to the City while maintaining a balance with other community needs, such as housing, open space, and recreation.</p> <p>Because the proposed project would not result in a change in land use or authorize new development that is not already permitted by existing regulations, it would not conflict with the goals and policies of the City's General Plan. In addition, short-term residential rentals are currently permitted by the City, and the proposed modifications to existing regulations would be expected to result in an overall reduction in the number of short-term rental units as a result of the elimination of Type B licenses. The following provisions are intended to support the compatibility of short-term rentals with adjacent properties and maintain neighborhood character:</p> <ul style="list-style-type: none"> • <u>Tenant contact information.</u> Existing regulations require that each contract or tenancy that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed by the owner or owner representative of the occupancy, parking and other limits that apply to transient use. The owner is required to record the license numbers of tenants' vehicle(s) and must provide that information to the City 				

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<p>upon request. (Section 7.40.020.c).</p> <ul style="list-style-type: none"> • <u>Inspection Report</u>. The proposed revisions would require that upon initial license application and each renewal application, the property owner must submit an inspection report verifying that the property is in conformance with appropriate land use and building permits (Section 7.40.020.d). • <u>Use, maintenance and signs</u>. Existing regulations require that a transient use site (1) shall be used and maintained in a manner consistent with the character of the neighborhood, (2) shall not impair the desirability of investment or occupation of the surrounding neighborhood, and (3) shall not have displayed thereon any sign that indicates the property is used or available for transient or short-term rental purposes (Section 7.40.030.c). Failure to comply with these requirements are grounds for license denial or revocation (Section 7.40.180) • <u>License numerical limits</u>. The proposed revisions would establish a a cap and density limit on STR licenses (Section 7.40.025): • <u>Parking</u>. The proposed revisions would continue to require short term rental units to provide on-site parking, thereby substantially reducing potential impacts to the availability of on-street parking (Section 7.40.030.g). • <u>Limit on overnight guests</u>. Existing regulations establish limits on the number of overnight guests who may occupy a short-term rental (Section 7.40.030.f). No change to these existing regulations is proposed. • <u>Prohibition of commercial events</u>. The proposed revisions would prohibit auctions, commercial functions and similar events at a short-term rental property (Section 7.40.030.i) • <u>Limit on amplified sound</u>. The proposed revisions would continue to prohibit amplified sound that is audible beyond the property boundaries of short-term rental units (7.40.030.h) and would require that tenants be informed of noise limits (Section 7.40.030.b). • <u>Owner responsibilities</u>. Existing regulations require that owners shall use their best efforts, and respond in a reasonable and timely manner, to ensure that every occupant of the transient use site does not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the site (Section 7.40.030.d). Existing regulations further require that the owner or owner representative shall be on-call full time to manage the property (Section 7.40.030.e). <p>In addition, the proposed regulations would help to generate revenue for the City in conformance with Policy 15.</p> <p>These provisions of the proposed amendment would substantially reduce potential impacts to a level that is less than significant and no mitigation measures are required.</p> <p><u>Pacific Grove Local Coastal Program Land Use Plan</u></p> <p>The City of Pacific Grove is located in the coastal zone as defined by the California Coastal Commission (CCC). The Local Coastal Program Land Use Plan (LUP) is required under the provisions of the California Coastal Act of 1976, as amended, for all areas within the state's coastal zone. The LUP for Pacific Grove was adopted by the City Council on June 7, 1989, as an element of the City's General Plan and consists of a land use plan, zoning ordinance, zoning district maps and other ordinances, which when taken together, meet the requirements of, and implement the provisions and policies of the Coastal Act at the local level.</p> <p>The Coastal Act requires that lower cost visitor and recreational facilities be protected, encouraged and, where feasible, provided, and gives preference to development providing public recreational opportunities (Section 30213). Because the proposed amendment would continue to allow short-term</p>				

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lodging opportunities for coastal visitors in private residences, it would be consistent with the City's LUP and CCC policies promoting access to the city's beaches. Therefore, the proposed project would not conflict with the LUP and impacts would be less than significant. No mitigation is required.				
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X
(c) No Impact. There are no Habitat Conservation Plans or Natural Community Conservation Plans in effect within the city. No impacts would occur and no mitigation is required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XI. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X
(a-b) No Impact. No known mineral resources are located within the City of Pacific Grove nor designated in the City's General Plan or other land use plan. Therefore, the proposed project would have no impact on mineral resources. No mitigation is required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XII. NOISE – Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
(a-d) Less than Significant Impact. The proposed amendment would not authorize new development or change existing regulations regarding construction or mechanical equipment noise. However, potential noise impacts could occur if occupants were to engage in activities or behavior that is disruptive to adjacent residents, such as shouting or playing loud music outdoors. It is not possible to				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
<p>quantify or predict in any meaningful way the differences between long-term residents and short-term tenants with regard to human-generated noise. However, in order to address this concern, the proposed regulations continue to include the following provisions intended to minimize such noise impacts:</p> <ul style="list-style-type: none"> • <u>Limit on overnight guests.</u> Existing regulations establish limits on the number of overnight guests who may occupy a short-term rental (Section 7.40.030.f). No change to these existing regulations is proposed. • <u>Prohibition of commercial events.</u> The proposed revisions would prohibit auctions, commercial functions and similar events at a short-term rental property (Section 7.40.030.i) • <u>Limit on amplified sound.</u> The proposed revisions would prohibit amplified sound that is audible beyond the property boundaries of short-term rental units (7.40.030.h) and would require that tenants be informed of noise limits (Section 7.40.030.b). • <u>Owner responsibilities.</u> Existing regulations require that owners shall use their best efforts, and respond in a reasonable and timely manner, to ensure that every occupant of the transient use site does not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the site (Section 7.40.030.d). Existing regulations further require that the owner or owner representative shall be on-call full time to manage the property (Section 7.40.030.e). <p>These provisions would substantially reduce potential noise impacts to a level that is less than significant and no mitigation measures are required.</p>				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X
(e-f) No Impact. The project area is not in the vicinity of a private airstrip; therefore, no noise impacts would occur and no mitigation is required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XIII. POPULATION AND HOUSING –				
Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the				X

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
construction of replacement housing elsewhere?				
(a-c) No Impact. The proposed amendment would not authorize new development or induce substantial population growth. No existing housing units or people would be displaced as a result of the amendment. Therefore, the proposed project would have no impact housing and population. No mitigation is required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XIV. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?			X	
Police protection?			X	
Schools?				X
Parks?			X	
Other public facilities?			X	
Less than Significant Impact. As noted in Section X.b (Land Use and Planning), the proposed amendment would continue to impose regulations on the short-term rental of residential units such as limits on the number and density of short-term rental licenses, the number of occupants, the number of vehicles, and noise. Existing regulations require that the property owner or representative be on-call full-time to manage the property. These provisions would substantially reduce potential impacts on fire protection, police protection, parks and other public facilities to a level that is less than significant. Because short-term tenants do not attend local schools, no impact on schools would occur. No mitigation is required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	
(a-b) Less Than Significant Impact. Short-term rental of residential units is currently permitted in the city subject to licensing requirements. The proposed amendment would impose more restrictive				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
regulations on the number and density of short-term rental licenses. The amendment would not authorize additional development or increase land use intensity; therefore, potential impacts on existing parks and recreational facilities would be less than significant and no mitigation is necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XVI. TRANSPORTATION/TRAFFIC –				
Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system. Including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?			X	
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?			X	
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?			X	
(a-f) Less than Significant Impact. Short-term residential rentals are currently permitted in the City subject to obtaining a transient use license. The proposed amendment would not authorize new development and would impose more restrictive regulations on the short-term rental of residential units such as limits on the number and density of short-term rental licenses, the number of occupants, and parking requirements. Therefore potential impacts would be less than significant and no mitigation is required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XVII. TRIBAL CULTURAL RESOURCES. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or				X
b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.				X
(a-b) No Impact. Short-term rental of residential units is currently permitted in the city subject to licensing requirements. The proposed amendment would not authorize additional development or increase land use intensity; therefore, no impacts to tribal cultural resources would occur and no mitigation is necessary.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XVIII. UTILITIES AND SERVICE SYSTEMS – Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments?			X	

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?			X	
(a-g) Less Than Significant Impact. The proposed amendment would revise existing regulations for the short-term rental of residential units. No new development or increase in land use intensity would be authorized by the proposed amendment; therefore, impacts to utilities and service systems would be less than significant. No mitigation measures are required.				

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporation	Less Than Significant Impact	No Impact or Not applicable
XIX. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?				X
No Impact. The proposed amendment would modify current regulations for the short-term rental of existing residential units located in developed areas. Because no new construction would be authorized by the amendment, no impacts to fish and/or wildlife species or historical resources would occur.				
b) Does the project have impacts that are individually limited, but cumulatively considerable? ('Cumulatively considerable' means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
Less than Significant Impact. The proposed amendment would modify current regulations for the short-term rental of existing residential units located in developed areas. No new construction would be authorized by the amendment, and the proposed regulations would be more restrictive than currently exist with respect to the number and occupancy of short-term rentals; therefore, cumulative impacts would be less than significant.				
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	
Less than Significant Impact. The proposed amendment would modify current regulations for the short-term rental of existing residential units located in developed areas. No new construction would be authorized by the amendment, and the proposed regulations would be more restrictive than currently exist with respect to the number and occupancy of short-term rentals. Therefore, potential impacts on human beings, either direct or indirect, would be less than significant.				

ORDINANCE NO. 2017-

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING MUNICIPAL CODE CHAPTER 7.40 RELATED TO
THE LICENSE PROCESS FOR
TRANSIENT USE OF RESIDENTIAL PROPERTY**

FACTS

1. In 2016, Chapter 7.40 and Chapter 23.64 of the Pacific Grove Municipal Code (PGMC) were amended by Ordinance 16-007 to regulate transient use of residential property within residential zones, and required those sites to hold an annual license from the City. The transient use licensing program, coupled with enhanced enforcement, was intended to regulate and control this activity.

3. The City Council requested a review of the Short Term Rental Program based on the code amendments in one year.

4. The matter was returned to Council for direction at its meeting of May 17, 2017 at which time public comment was received from members of the public. The matter was continued to a Special Meeting of the Council and direction for amendments to the program and the code was received.

4. This ordinance amends Chapter 7.40 of the Municipal Code.

6. The City prepared an Initial Study and Mitigated Negative Declaration to review ordinance pursuant to the California Environmental Quality Act (CEQA), and this Ordinance has been mitigated to a point where the proposed project will not have the potential to significantly degrade the environment; will have no significant impact on long-term environmental goals; will have no significant cumulative effect upon the environment; and will not cause substantial adverse effects on human beings, either directly or indirectly.

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

SECTION 1. The foregoing factual recitals are adopted as findings of the City Council.

SECTION 2. Amendments to the Municipal Code Chapter 7.40, entitled "Transient Use License," shall be amended by the deletion of all text shown in strikeout text (~~strikeout text~~) and by the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

Chapter 7.40
TRANSIENT USE LICENSE

Sections:
7.40.005 Statement of purpose.

- 7.40.010 Definitions.
- 7.40.020 Allowed use.
- 7.40.025 License caps and density limits.
- 7.40.030 Limits on transient use.
- 7.40.040 Transient use license.
- 7.40.050 Display of transient use license.
- ~~7.40.060 Separate properties.~~
- 7.40.0670 Contents of license.
- 7.40.0780 Application – First license.
- 7.40.0890 Renewal license.
- 7.40.090 Reserved
- 7.40.100 Change to license information.
- 7.40.110 Evidence of transient occupancy of residential property.
- 7.40.120 Statements and records.
- 7.40.130 Failure to file statement or corrected statement.
- 7.40.140 Payment of transient occupancy tax.
- 7.40.150 Appeal of tax.
- 7.40.160 Additional power of city.
- 7.40.170 License nontransferable – Changed location.
- 7.40.180 License denial or revocation.
- 7.40.190 Appeal of revocation or suspension.
- 7.40.200 Penalties.
- 7.40.210 Liens.
- 7.40.005 Statement of purpose.

The purpose of this chapter is to establish a permitting process, together with appropriate standards that regulate short-term rental of single-family and multifamily dwellings in residential districts, to minimize negative secondary effects of short-term rental use on surrounding residential neighborhoods; and to preserve the character of neighborhoods in which any such use occurs. This chapter addresses traffic, noise and density; ensures health, safety and welfare of neighborhoods as well as of renters and guests patronizing short-term rentals; and imposes limits on the number of licenses issued to ensure long-term availability of the affordable housing stock. This chapter also sets regulations to ensure enforcement of these standards, and collection and payment of fees and transient occupancy taxes.

This chapter shall not provide any property owner with the right or privilege to violate any private conditions, covenants or restrictions applicable to the owner's property that may prohibit the use of such owner's residential property for short-term rental purposes as defined in this chapter.

The city council finds adoption of a comprehensive code to regulate issuance of and conditions attached to short-term rental licenses is necessary to protect the public health, safety and welfare. The purposes of this chapter are to provide a licensing system and to impose operational requirements in order to minimize the potential adverse impacts of transient uses on residential neighborhoods.

The city council finds the regulation of short-term rental uses, including its nontransferability provisions, to be a valid exercise of the city's police power in furtherance of the legitimate governmental interests documented in this chapter. [Ord. 16-007 § 3, 2016].

7.40.010 Definitions.

The terms "owner," "owner representative," "person," "remuneration," "residential property," "responsible tenant," "transient," "transient use," "transient use of residential property," and "transient use site" as used in this chapter shall be given the same definition as those terms in PGMC 23.64.350.

"STR License ~~Type A~~" is a term that shall mean a short-term rental unit licensed for transient use of residential property for remuneration ~~(a) where the property owner does not reside at the site, or (b) where the property owner resides at the site, and where the property is available for short-term guests for more than 90 days in a single license year.~~

~~"STR Type B" is a term that shall mean a short-term rental unit licensed for transient use of residential property for remuneration where the property owner resides at the site, and where the property is available for short-term guests for no more than 90 days in a single license year (365 days). [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].~~

7.40.020 Allowed use.

(a) Transient use of residential property for remuneration is allowed pursuant to Chapter 23.64 PGMC or this chapter; provided, that a separate transient use license has first been granted and validly maintained for each transient use site.

(b) Each transient use license must meet all the requirements of this chapter. Transient use licenses are issued for a term. If no expiration date is shown, each shall expire on March 31st. A transient use license may be extended or renewed for a subsequent year if there have not been more than two verified (by city official) complaints received. ~~Transient use licenses issued and current as of May 6, 2016, shall expire on March 31, 2017.~~

~~(c) For the purposes of this chapter, the city recognizes and sets discrete requirements for each of two different classes of transient use licenses. These are "STR Type A" and "STR Type B."~~

~~(c)~~ Each contract or tenancy landlord-tenant rental agreement that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed of, and has agreed to abide by, occupancy, parking and other limits that apply to that transient use. The owner or owner representative shall make a record of the motor vehicle license number of each motor vehicle used by an occupant of the transient use site, and shall upon request provide that information to the city manager or his delegated agent.

~~(d)~~ For each initial transient use license application, and each annual license renewal, the applicant and each property owner shall submit an inspection report to the city that provides and verifies information, in the form and manner required by the chief building official or delegate, to ensure the property is safe and habitable for its intended use, including verification of adequate egress from sleeping quarters and common areas, installation of accessible fire extinguishers, and a

carbon monoxide alarm on each level, and that the property exists in accord with appropriate land use and building permits.

~~(e)~~ The city shall cause notice of the application or any license renewal, and of any hearing on the application ~~or renewal to be posted and~~ mailed to notify neighbors **compatible with the density exclusion of the** within 300 feet of the transient use licensed site. The notice shall include a statement of the maximum number of guests permitted to stay in the short-term rental unit. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.025 License caps and density limits.

(a) License Cap. The maximum number of STR ~~Type A~~ licenses allowed within the residential districts of the city shall be 250. If applications exceeding this number are received, the city manager shall place the excess number on a STR license waiting list and process those in order of receipt as licenses become available. ~~The maximum number of Type B transient use licenses are not limited by this chapter.~~

(b) Density Limit. A STR ~~Type A~~ license shall not be issued if granting that STR ~~Type A~~ license would cause the STR ~~Type A~~ density limit to be exceeded. ~~for that residential zoning; provided, however, no STR density limit shall apply to Ocean View Boulevard and Mermaid Avenue.~~

The following density limits shall apply:

(1) One STR ~~Type A~~ license per parcel **and only one dwelling unit per parcel shall be licensed.** ~~This limit shall apply to any duplex.~~ It shall not apply to a property governed by the duly adopted bylaws of a city-approved homeowners' association (HOA), or to properties held as tenants in common. The limit shall not apply to commercially zoned properties.

~~(2) STR Type A licenses shall be further limited based on existing residential zoning district. Type A licenses shall be limited in all of the R-1 and R-2 districts to a total of 104 licenses. R-3 and R-4 districts are limited to a total of 146 licenses.~~

~~(3) A second or subsequent STR Type A license shall be approved only if the total number of such licenses does not exceed 15 percent per block on which it is located.~~

~~(4) In the case where the number of STR Type A licenses currently exceed the 15 percent per block density measure, the existing licenses on that particular block shall be limited to renting a total of 150 nights per year.~~

~~(5)~~ Commencing on March 31, 2018, all STR ~~Type A~~ licenses issued in the R-1-B-4 district shall require a use permit due to the sensitive habitat located in the vicinity. [Ord. 16-007 § 3, 2016].

7.40.030 Limits on transient use.

Transient use of residential property for remuneration allowed by Chapter 23.64 PGMC or this chapter shall be subject to each and every limitation in this section:

(a) Each contract or tenancy that enables transient use shall be in writing, and identify thereon the name, address, phone and e-mail contact information of (1) the owner, (2) the owner representative, and (3) at least one responsible tenant occupying the transient use site who shall be responsible for all limits required by this chapter;

(b) Each ~~contract or tenancy~~ landlord-tenant agreement that allows transient use shall identify the name, address, phone and e-mail contact information of at least one responsible tenant who has been informed by the owner or owner representative of the occupancy, parking and other limits that apply to transient use by this chapter and shall be informed of residential parking and noise limits, including but not limited to PGMC 11.96.010, the city codes that regulates unlawful noises;

(c) The transient use site (1) shall be used and maintained in a manner consistent with the character of the neighborhood, (2) shall not impair the desirability of investment or occupation of the surrounding neighborhood, and (3) shall not have displayed thereon any sign that indicates the property is used or available for transient or short-term rental purposes;

(d) Owner and owner representative shall each use their best efforts, and respond in a reasonable and timely manner, to ensure that every occupant of the transient use site does not create or contribute to unreasonable use of the property, cause unreasonable noise or disturbance, engage in disorderly or unlawful conduct, or overcrowd the site;

(e) The owner or owner representative shall be on-call full time to manage the property and shall be able to be physically present at the transient use site within 30 minutes of request during any time the property is occupied for transient use. Within 24 hours of the time an initial call is attempted, the owner or owner representative shall use his or her best efforts to prevent the recurrence of such conduct by the occupants and take corrective action to address any violation. Failure to respond timely to two or more complaints regarding tenant violations is grounds for penalties as set forth in this chapter;

(f) The maximum number of occupants aged 18 or older authorized to stay overnight at any transient use site shall be limited to two persons per bedroom, plus one additional person per site;

(g) Each designated on-site parking space at a transient use site shall be made available for use by overnight occupants of that site and any on-site driveway must be available for the use of the renters of the site;

(h) The maximum size event or large group gathering allowed at the transient use site shall not exceed one and one-half times the maximum number of occupants (aged 18 or older) authorized to stay overnight at that site, as shown on the STR license, ~~and in no event shall a gathering exceed 20 persons;~~

(i) Amplified sound that is audible beyond the property boundaries of the short-term rental dwelling is prohibited; and

(j) Auctions, commercial functions, and other similar events are prohibited at the short-term rental property. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.040 Transient use license.

It is unlawful for any person to transact and carry on any business relating to or supporting the transient use of residential property in the city without first having procured a transient use license from the city to do so, and paying the license fee and any other fees associated with approval of an application of a license, and also without complying with any and all applicable provisions of this chapter. A transient use license, however, shall not be required for any lawfully established bed and breakfast inn, motel, hotel, or timeshare development. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.050 Display of transient use license.

The owner or owner representative shall cause a copy of the transient use license to be displayed in a prominent location within the interior of the transient use site, and shall provide a copy to each responsible tenant. Each Internet or online ad, sign, circular, card, telephone book, or newspaper advertisement that indicates or represents a transient use site is available for transient or short-term rental purposes shall prominently display thereon the transient use license number assigned to that site by the city of Pacific Grove. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

~~7.40.060 Separate properties.~~

~~A single transient use license shall be issued for each and every residential dwelling unit for transient use under identical ownership at a single site. In all other circumstances, a separate license shall be required for each transient use. A transient use license shall authorize the licensee to transact and carry on transient use of residential property only at the location and in the manner and subject to the limits designated in such license. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].~~

7.40.0670 Contents of license.

Every person required to have a license under the provisions of this chapter shall make application to the city and tender payment of the prescribed application and license fee. Thereafter, in accord with the provisions of this chapter, the city shall issue to such person a license which shall contain the following information:

(a) The name and contact information of the owner to whom the license is issued, and the name and contact information for the owner representative;

(b) The transient use site licensed ~~and whether the license is a “STR Type A” or a “STR Type B”;~~

(c) The date of the expiration of such license;

(d) The maximum number of occupants aged 18 or older who are authorized to stay overnight at that transient use site in accordance with the number of bedrooms on site;

(e) The maximum number of motor vehicles allowed for use by overnight occupants at that transient use site based on the available on-site parking as shown on the application site plan;

(f) Such other administrative information as may be necessary for the enforcement of the provisions of this chapter. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.0780 Application – First license.

Each short-term rental license shall be in the name of the owner of the real property upon which the short-term rental use is to be permitted. A tenant of the property shall have written permission by the owner of the property. When a person first makes an application for a license pursuant to this chapter, such person shall furnish to the city a sworn statement, upon a form provided by the city, setting forth the following information:

(a) The address of the transient use site to which the license shall apply, and all places of residence of the owner(s) of same;

(1) In the event an application is made for issuance of a license to a person doing business under a fictitious name, the application shall set forth the names and places of residence of those owning the business;

(2) In the event an application is made for the issuance of a license to a corporation or a partnership, the application shall set forth the names and places of residence of the principal officers and all partners thereof;

~~(b) Each application shall set forth such information as may be therein required by the city collector and deemed necessary to estimate the annual transient occupancy tax to be charged for that property.~~ The property owner shall maintain a transient use license at all times, and shall agree to collect and remit transient occupancy taxes on all gross receipts pertaining to the property;

(c) Each license application shall identify the name, address, phone and e-mail contact information of the owner and the owner representative;

(d) Each license application shall include a site plan, which labels each room in the structures on the property, including the number of bedrooms and the number of off-street parking spaces;

(e) A certification affidavit signed by the owner affirming that smoke detectors are installed in all sleeping quarters and common areas and that fire extinguishers are accessible and a carbon monoxide alarm is installed on each level, to protect the health and safety of the occupants of the transient use site and the applicant shall provide access and information to the fire inspector as needed to ensure health and safety for occupants of the transient use site; and

(f) Such further information which the city may require to enable proper administration of the license.

The applicant shall remit all required annual fees in accordance with the master fee schedule set by council resolution. The applicant shall agree to renew and/or amend the license in accord with the requirements of this chapter as it may be amended from time to time and if there is

a change in any material fact stated in the application. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.0890 Renewal license.

(a) In all cases, the applicant for the renewal of a license shall submit to the city on or before March 1st each year an application for renewal containing a sworn statement upon a form to be provided by the city, setting forth such information concerning the applicant's transient occupancy activity during the preceding calendar year as may be required by the city collector to enable him or her to verify the amount of the transient occupancy tax paid by said applicant pursuant to the provisions of this chapter. Evidence that a site has not been used for transient use during the preceding 12 months shall cause nonrenewal of a STR ~~Type A~~ license.

(b) The property owner shall remit the annual license fee, as set by resolution, at the same time as the renewal application. The property owner shall submit an annual affidavit affirming that smoke detectors are installed and maintained in all sleeping quarters and common areas, that fire extinguishers are accessible, and a carbon monoxide alarm is installed on each level. The property owner shall provide access and information to ~~the~~ any city inspector to ensure health and safety for occupants of the transient use site, including verification of adequate egress from sleeping quarters and common areas, and installation of accessible fire extinguishers, and a carbon monoxide alarm on each level. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.090 Reserved.

7.40.100 Change to license information.

A request to amend any information provided on the license issued pursuant to this chapter shall be made within 14 days of any change of owner, a change of the owner representative, a change in any material fact upon which the license was issued, or if any other person acquires an ownership interest in the transient use site. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.110 Evidence of transient occupancy of residential property.

~~When any owner, owner representative or other person makes use of Internet services, signs, circulars, cards, telephone books, or newspapers, and/or advertises, holds out, or represents that he or she allows transient occupancy of residential property in the city, and such person fails to provide a sworn statement to the city that he or she does not allow transient occupancy of residential property in the city after being requested to do so by the city, then such information shall be considered prima facie evidence that he or she is conducting a business in the city of allowing transient occupancy of residential property. Until proper evidence to the contrary is presented to the city, the city shall be entitled to presume that residential property is subject to the license required by this chapter, and/or that the transient use of residential property has occurred at the transient use site.~~ **When the City has reasonable cause to believe an owner of real property within the City, or the agent of an owner, has advertised such property as available for short term occupancy in exchange for monetary payment, and if no valid transient use license has been issued for the property, the City may require the owner or owner's agent to provide the City within seven calendar days a sworn statement that such advertisement and/or occupancy has not occurred. Failure by the owner or owner's agent to provide the sworn statement shall constitute prima**

facie evidence the owner or owner's agent is violating this Chapter 7.40. Advertisement includes, but is not limited to, offering the property for short term occupancy through internet advertisement, signs, circulars, cards, telephone books, or newspapers, and/or other representation implying or stating the property is available for short term rental use.[Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.120 Statements and records.

No statement **required by this Chapter** shall be conclusive as to the matters set forth therein, nor shall the filing of such statement keep the city from collecting by appropriate action taxes and/or fees that are due and payable hereunder. In the event that the city deems it necessary, he or she may require that a licensee or applicant for a license submit verification of financial information necessary to calculate the transient occupancy tax due, or at the option of the licensee or applicant, may authorize the city to examine records or business transactions to compute the transient occupancy tax that is owed. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.130 Failure to file statement or corrected statement.

If any person fails to file any ~~required~~ statement **required by this Chapter** within the time prescribed, or if after demand therefor made by the city he or she fails to file a corrected statement, or if any person subject to the tax imposed by this chapter fails to apply for a license, the city may determine the amount of tax due from such person by means of such information as he or she may be able to obtain and shall give written notice thereof to such person. Delinquent payment shall be subject to penalties calculated in the same manner as set forth in PGMC 7.04.200. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.140 Payment of transient occupancy tax.

The owner or owner representative shall remit the transient occupancy tax as set forth in Chapter 6.09 PGMC. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.150 Appeal of tax.

Any person aggrieved by any decision of the city with respect to the amount of the transient occupancy tax or fees associated thereto may appeal to the administrative enforcement hearing officer panel by filing a notice of appeal with the city clerk **or delegeedelegate** within 15 days after receipt of written notice from the city. The hearing officer assigned by the panel shall thereupon fix a time and place for hearing such appeal. The city clerk **or delegeedelegate** shall give notice to such person of the time and place of hearing by serving it personally or by depositing in the United States Post Office at Pacific Grove, California, postage prepaid, addressed to such person at his or her last known address. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.160 Additional power of city.

In addition to all other power conferred upon the city, he or she shall have the power, for good cause shown:

(a) To extend the time for filing any required sworn statement or application for a period not exceeding 30 days, and in such case to waive any penalty that would otherwise have accrued; and

(b) Whenever any fee, tax or penalty pursuant to this chapter is due and payable but has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, such amounts shall constitute a lien against the real property, and be subject to the processes set forth in PGMC 1.19.270 through 1.19.290, inclusive. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.170 License nontransferable – Changed location.

No license issued pursuant to this chapter shall be transferable to any other person or location. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.180 License denial or revocation.

Any application for a license may be denied, and any license issued pursuant to this chapter may be revoked, **cancelled or suspended** ~~unless substantial evidence shall be presented as to why the application should not be denied, or the license should not be revoked for any reasons,~~ including but not limited to:

(a) A false material statement or misrepresentation has been made in, or in support of, the application;

(b) A change occurs in any material fact upon which the license was issued that has not been reported to the city as a change to the required license content within 14 days;

(c) The transient use site, or any other location owned by the owner or applicant, has been the site of a violation of any provision of law, or otherwise fails to meet sanitation or health standards of the neighborhood, within the two years immediately preceding;

(d) The owner or applicant has violated any provision of the municipal code or any provision of the Health and Safety Code, within the two years immediately preceding;

(e) The owner, owner representative or applicant has been convicted of any crime involving moral turpitude;

(f) The owner, owner representative or applicant has failed to timely respond to two or more complaints regarding limits on transient use as required by PGMC 7.40.030 within the two years immediately preceding;

(g) The site does not meet the definition of dwelling unit as per PGMC 23.64.350(a)(5);

(h) The owner, applicant, guest or any occupant of a STR site allows or facilitates a party, event or large group gathering at that site that exceeds ~~one and one-half times~~ the maximum number of occupants (aged 18 or older) authorized to stay overnight at that transient use site, as shown on the STR license;

(i) The owner, applicant, guest or any occupant of a STR site regularly engages in disorderly conduct, violates provisions of this code or any state law pertaining to noise, disorderly conduct, or uses illegal drugs. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.190 Appeal of denial, revocation or suspension.

Any person who has been denied a license or to whom notice of revocation or suspension of a license has been mailed may appeal to the administrative enforcement hearing panel under Chapter 1.19 PGMC, pursuant to a request for hearing under PGMC 1.19.090. Notice of the proceeding shall conform to PGMC 1.12.010, and the hearing shall conform to the process set at PGMC 1.19.090 and following and PGMC 1.19.180. The hearing officer shall have authority to determine all questions raised by such appeal; provided, however, that no such determination shall conflict with any substantive provision of this chapter. Any applicant or license holder whose license shall have been denied or revoked shall be ineligible for a two-year period from applying for a new license. No person whose license has been revoked shall continue to engage in or carry on the activity for which the license was granted, unless and until such license has been reinstated or reissued. The decision of the hearing officer shall be final. Notice of the decision, and the opportunity for judicial review, shall conform to PGMC 1.20.010. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.200 Penalties.

Penalties as set forth in Chapter 1.16 PGMC, or the administrative process set forth in Chapter 1.19 PGMC, may be imposed for failure to comply with the provisions of Chapter 23.64 PGMC or this chapter, with respect to:

(a) Any owner, owner representative, or person who transacts or carries on any activity relating to or supporting the transient use of residential property in the city without first having procured and complied with a transient use license from the city so to do and paying all applicable license fees shall be subject to administrative penalties as set forth in Chapter 1.19 PGMC, including administrative penalties imposed by a hearing officer for violation of any provision of this chapter in an amount not to exceed a maximum of \$2,500 per day for each continuing violation, exclusive of administrative costs, interest and restitution for compliance reinspections, for any related series of violations, and/or forfeiture of all rents received during the period transient use was allowed without a transient use license, whichever amount is greater; or

(b) Any owner, owner representative, or person who carries on any activity that advertises to the surrounding neighborhood that the site has been licensed to allow, or is used for, transient occupancy, and who has failed to timely remedy this violation in response to two or more complaints, shall be subject to administrative penalties; or

(c) Any owner, owner representative, responsible tenant or person who allows a transient use site to be used or maintained in a manner detrimental to the peace, public health, safety or general welfare of persons or property of the neighborhood or the public, and fails to timely remedy this violation in response to two or more complaints; or

(d) Any owner, owner representative, responsible tenant or person who allows impermissible or inappropriate behavior at the transient use site or action that exceed the limits on transient use set by PGMC 7.40.030 following two or more complaints; or

(e) Limits upon administrative penalties in PGMC 1.19.200 shall not apply to any violation of this chapter. [Ord. 16-007 § 3, 2016; Ord. 10-001 § 3, 2010].

7.40.210 Liens.

Whenever the amount of any penalty, forfeiture, and/or administrative cost imposed by a hearing officer pursuant to this chapter or to Chapter 1.19 PGMC has not been satisfied in full within 90 days and/or has not been successfully challenged by a timely writ of mandate, this obligation shall constitute a lien against the real property on which the violation occurred, and be subject to the processes set forth in PGMC 1.19.270 through 1.19.290, inclusive.

SECTION 4. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS ____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL KAMPE, Mayor

ATTEST:

Sandra Kandell, Deputy City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

Attachment B – Radius illustrations

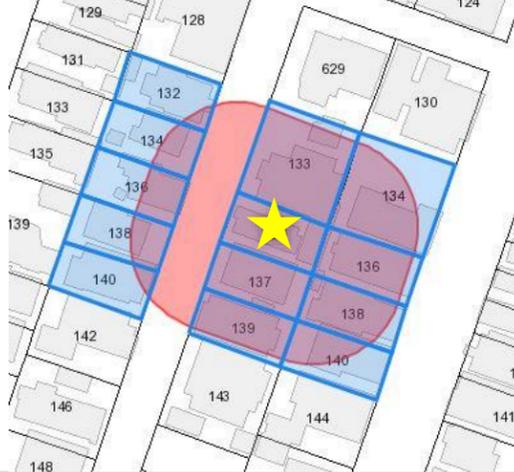
40' radius (10 affected parcels)



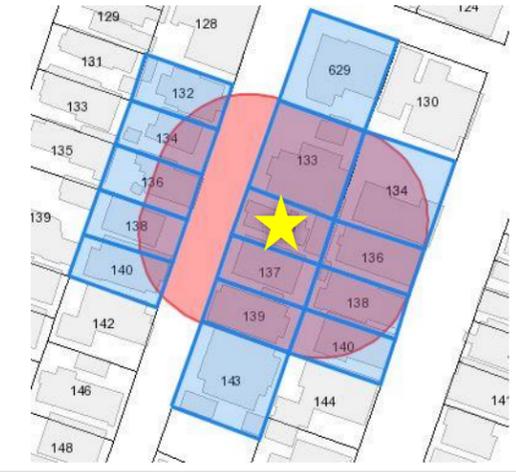
50' radius (12 affected parcels)



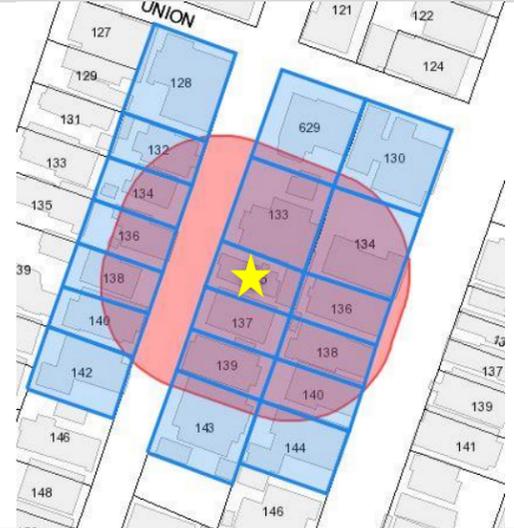
55' Radius (12 affected parcels)



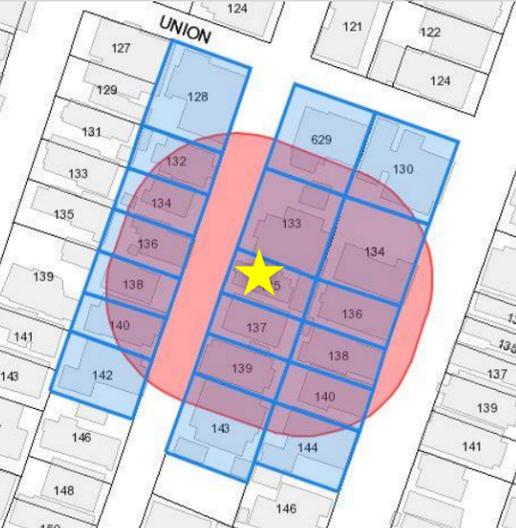
60' radius (14 affected parcels)



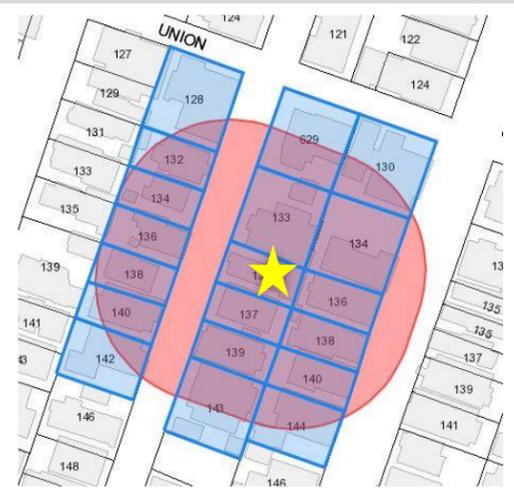
70' radius (18 affected parcels)



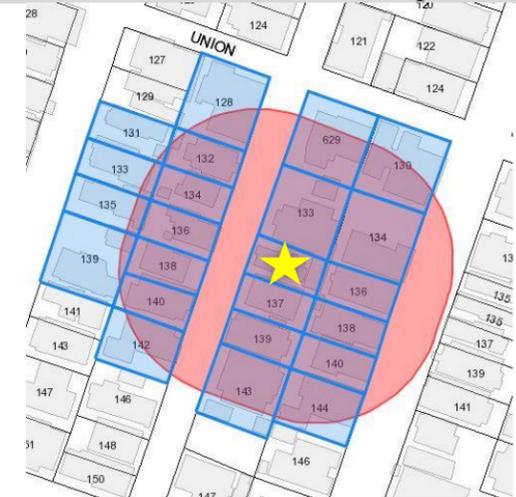
80' Radius (18 affected parcels)



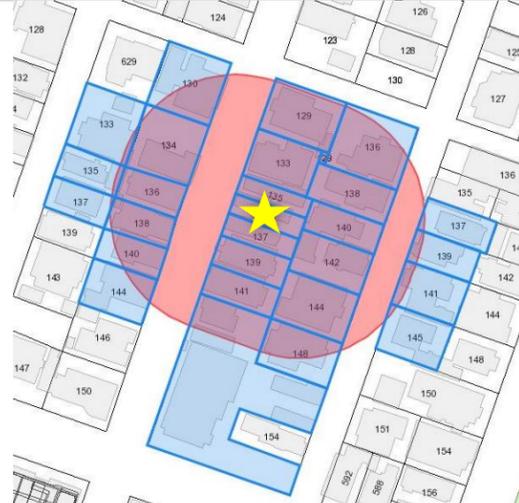
90' radius (18 affected parcels)



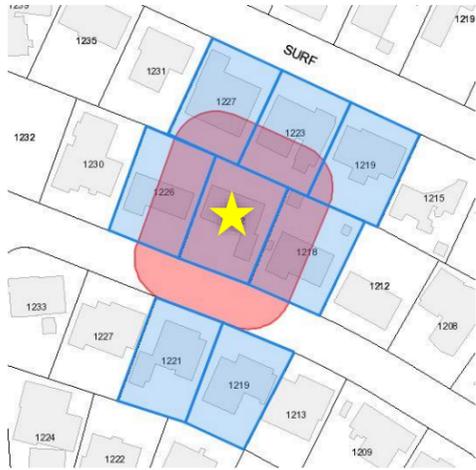
100' Radius (22 affected parcels)



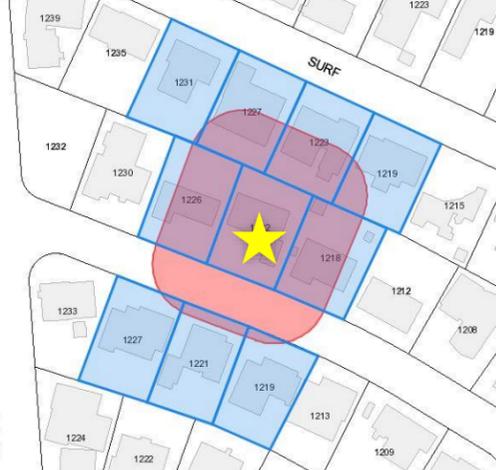
110' radius (26 affected parcels)



40' radius (7 affected parcels)



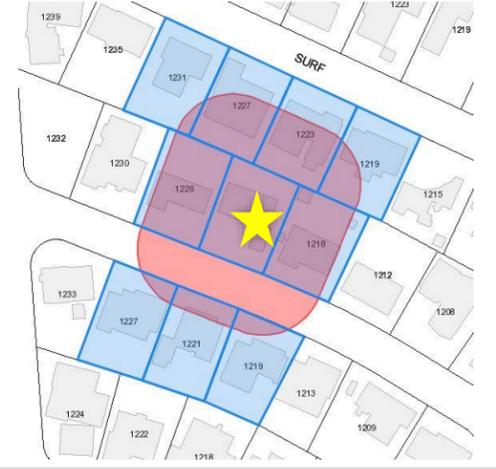
50' radius (9 affected parcels)



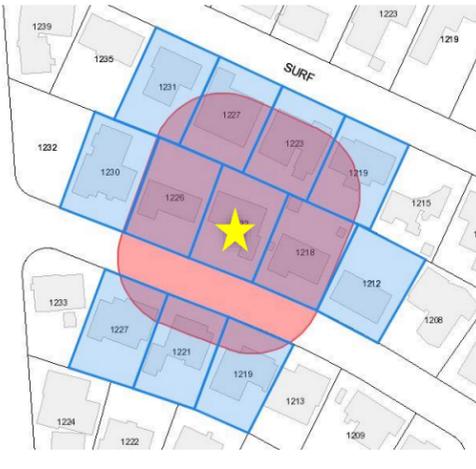
55' Radius (9 affected parcels)



60' radius (9 affected parcels)



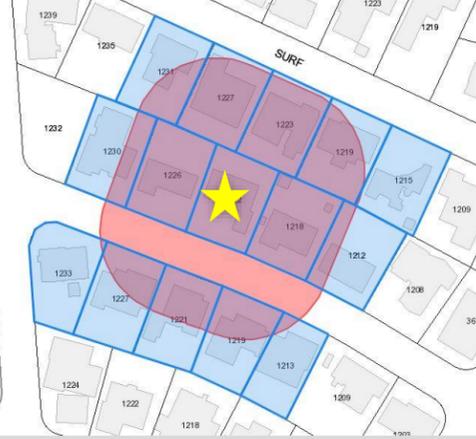
70' radius (11 affected parcels)



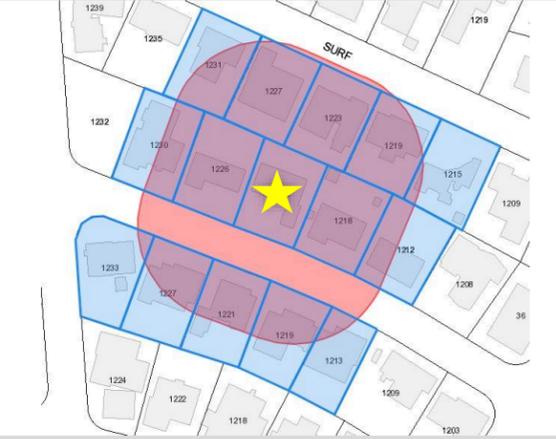
80' Radius (12 affected parcels)



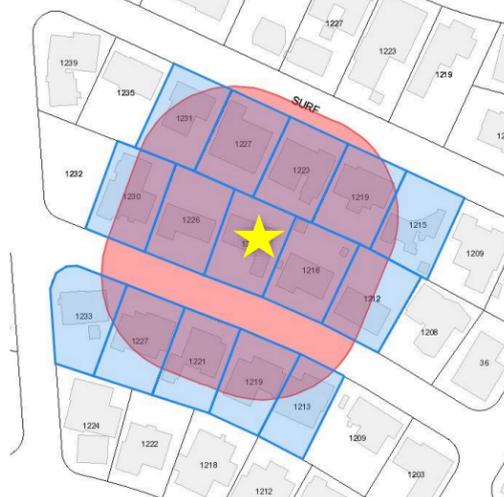
90' radius (14 affected parcels)



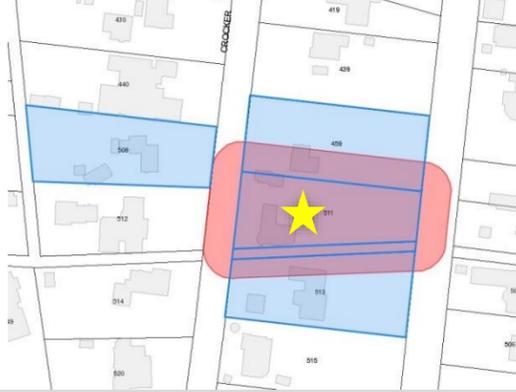
100' Radius (14 affected parcels)



110' radius (14 affected parcels)



40' radius (3 affected parcels)



50' radius (6 affected parcels)



55' Radius (8 affected parcels)



60' radius (8 affected parcels)



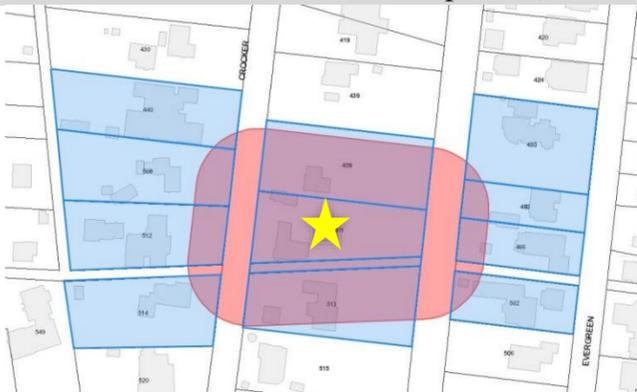
70' radius (9 affected parcels)



80' Radius (10 affected parcels)



90' radius (10 affected parcels)



100' Radius (12 affected parcels)



110' radius (13 affected parcels)



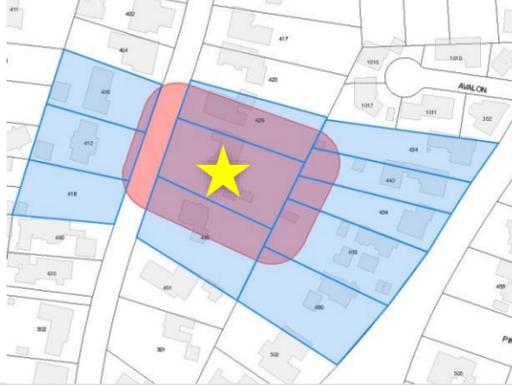
40' radius (8 affected parcels)



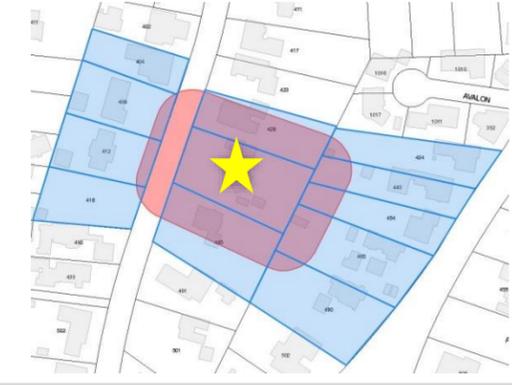
50' radius (10 affected parcels)



55' Radius (10 affected parcels)



60' radius (11 affected parcels)



70' radius (12 affected parcels)



80' Radius (13 affected parcels)



90' radius (13 affected parcels)



100' Radius (13 affected parcels)



110' radius (16 affected parcels)



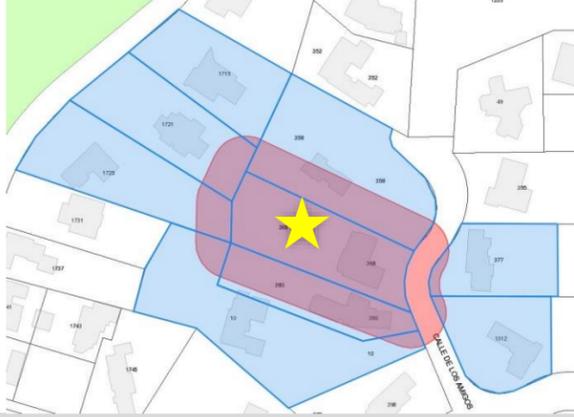
40' radius (7 affected parcels)



50' radius (8 affected parcels)



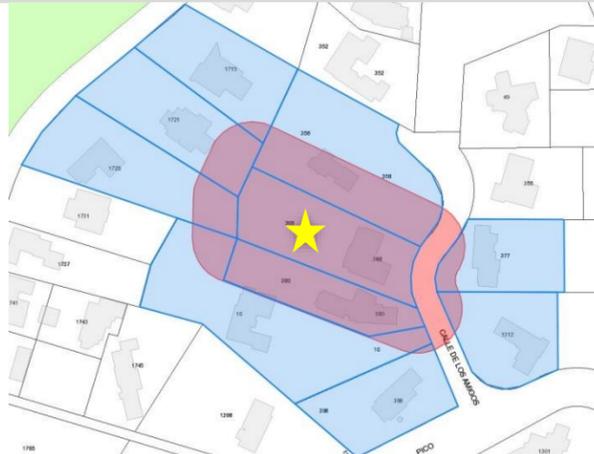
55' Radius (8 affected parcels)



60' radius (8 affected parcels)



70' radius (8 affected parcels)



80' Radius (8 affected parcels)



90' radius (9 affected parcels)



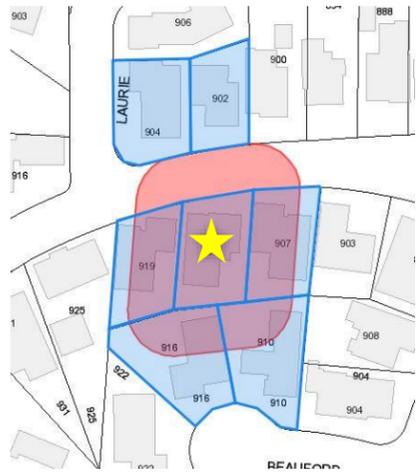
100' Radius (10 affected parcels)



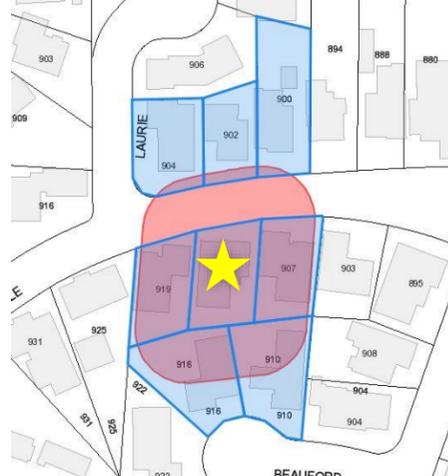
110' radius (10 affected parcels)



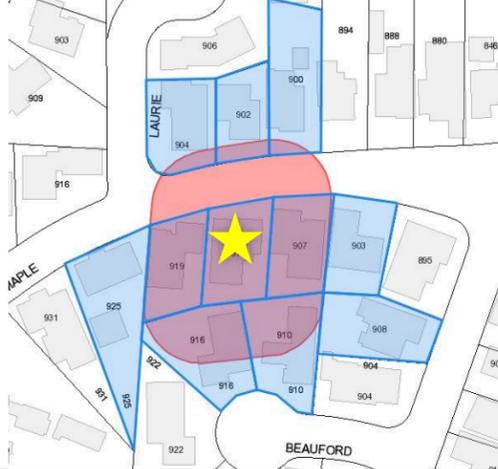
40' radius (6 affected parcels)



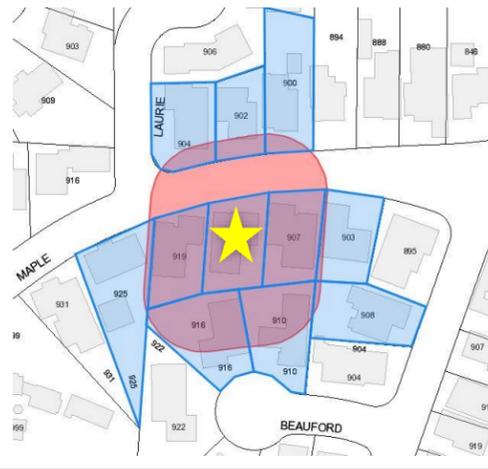
50' radius (7 affected parcels)



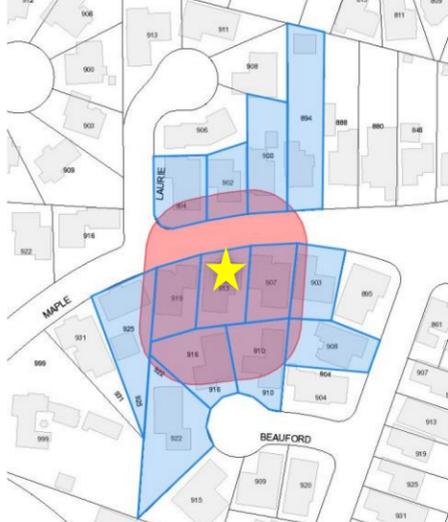
55' Radius (10 affected parcels)



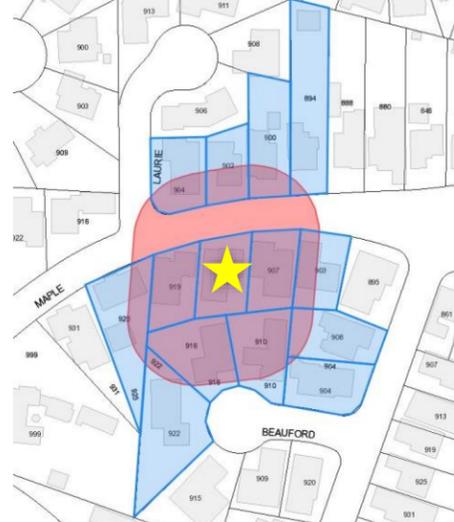
60' radius (10 affected parcels)



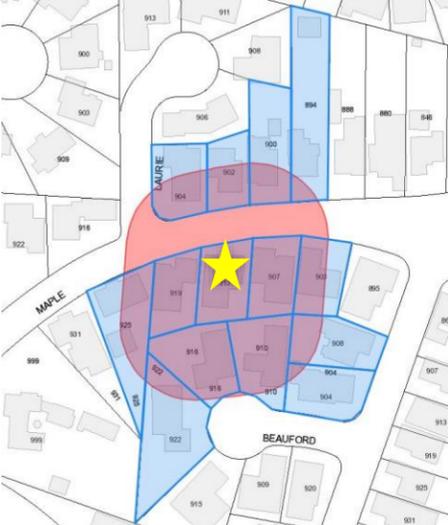
70' radius (12 affected parcels)



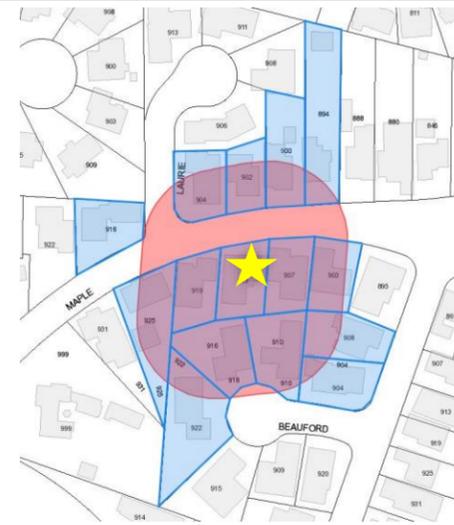
80' Radius (12 affected parcels)



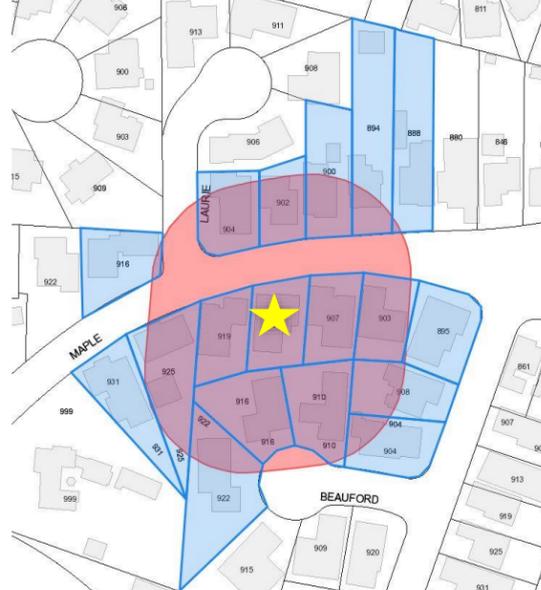
90' radius (13 affected parcels)



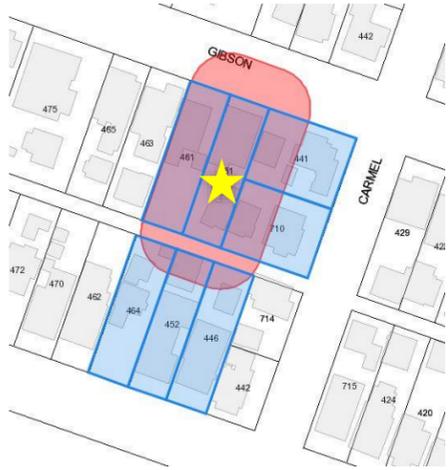
100' Radius (14 affected parcels)



110' radius (16 affected parcels)



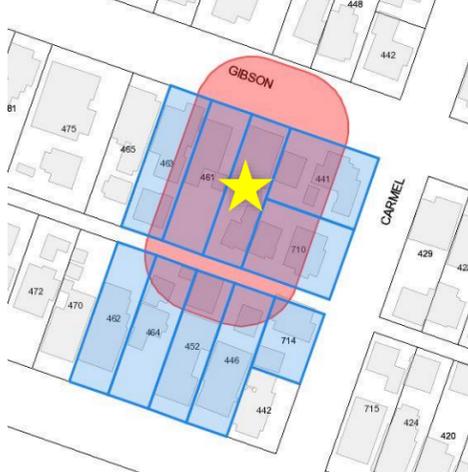
40' radius (6 affected parcels)



50' radius (9 affected parcels)



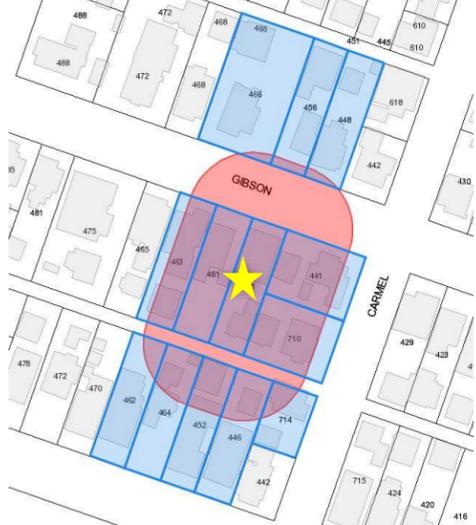
55' Radius (9 affected parcels)



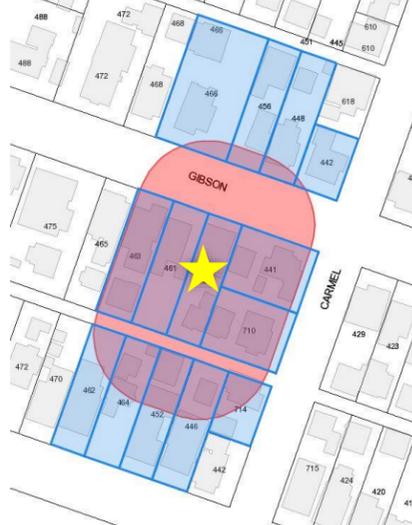
60' radius (10 affected parcels)



70' radius (12 affected parcels)



80' Radius (13 affected parcels)



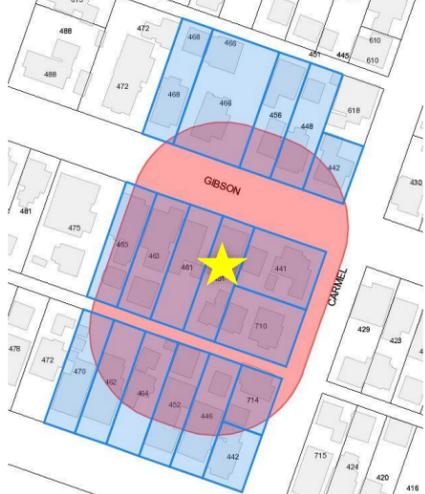
90' radius (15 affected parcels)



100' Radius (16 affected parcels)



110' radius (17 affected parcels)



40' radius (7 affected parcels)



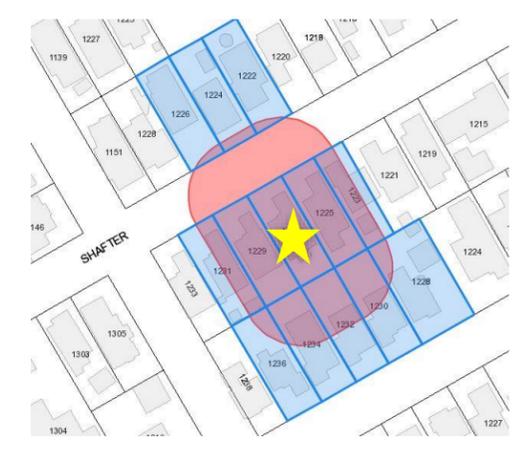
50' radius (12 affected parcels)



55' Radius (12 affected parcels)



60' radius (12 affected parcels)



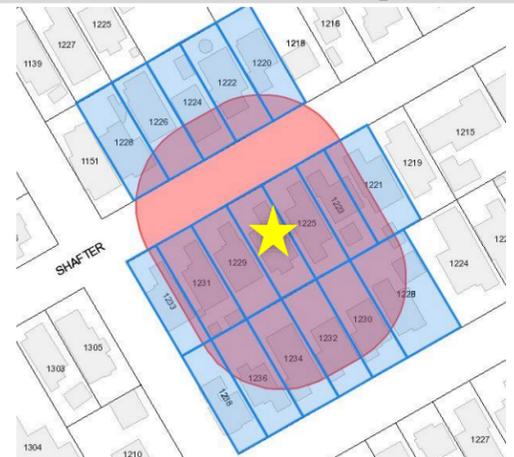
70' radius (14 affected parcels)



80' Radius (15 affected parcels)



90' radius (17 affected parcels)



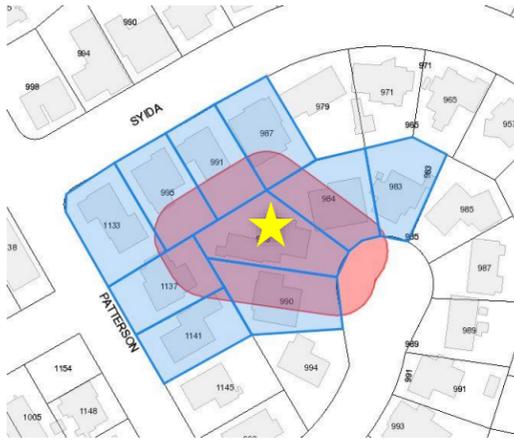
100' Radius (19 affected parcels)



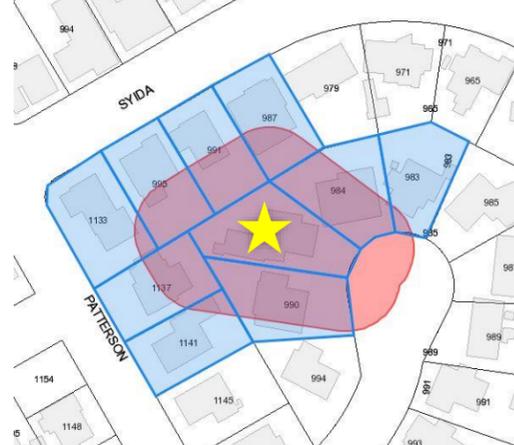
110' radius (20 affected parcels)



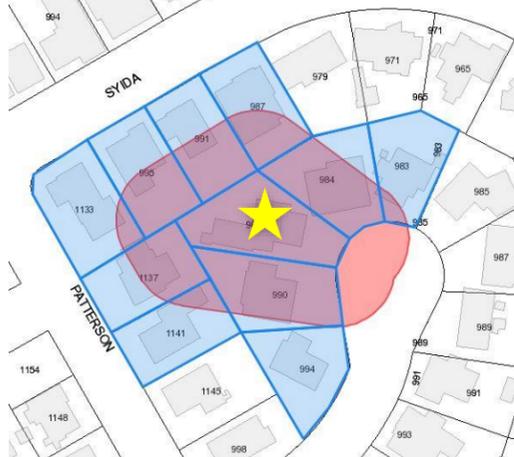
40' radius (9 affected parcels)



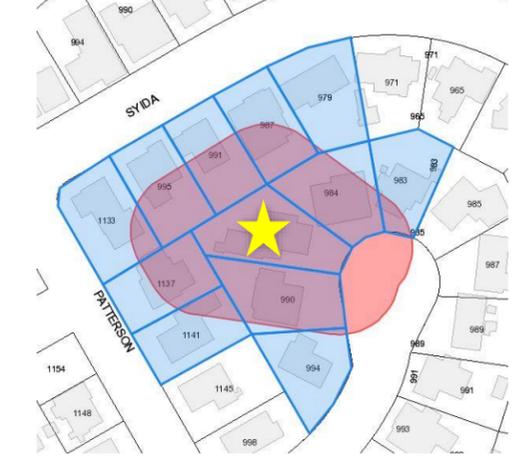
50' radius (9 affected parcels)



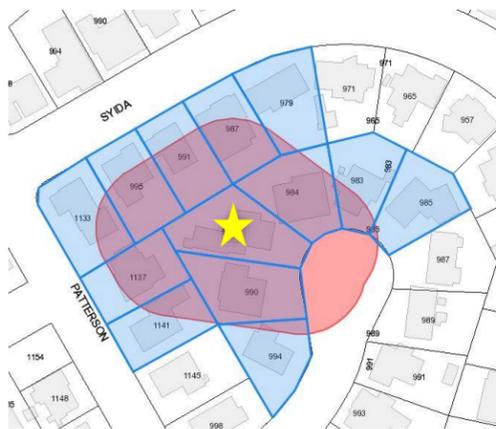
55' Radius (10 affected parcels)



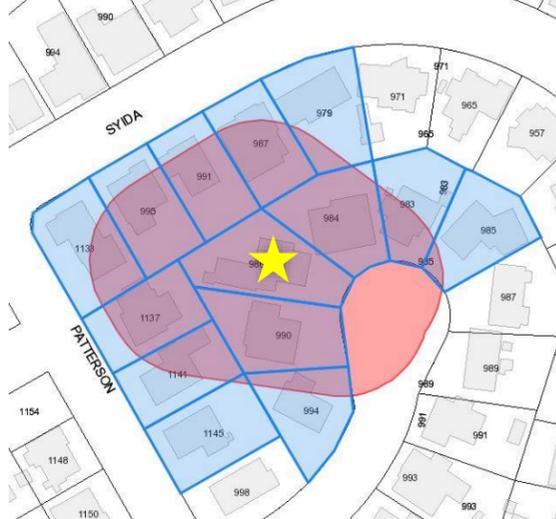
60' radius (11 affected parcels)



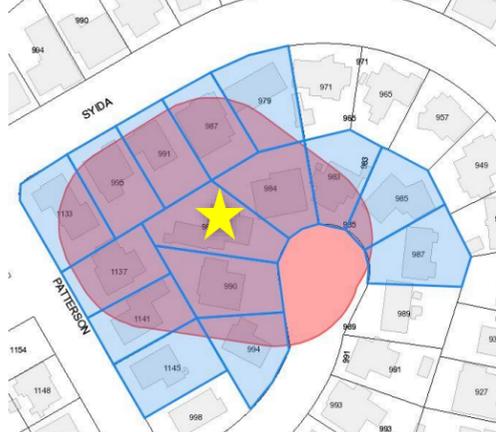
70' radius (12 affected parcels)



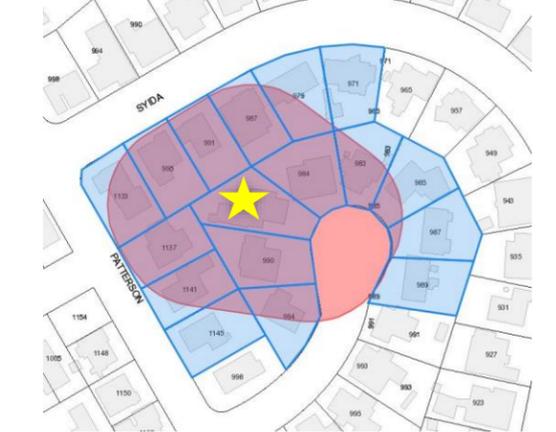
80' Radius (13 affected parcels)



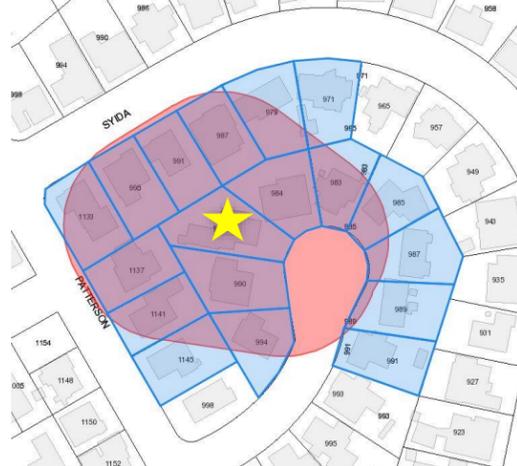
90' radius (13 affected parcels)



100' Radius (15 affected parcels)



110' radius (16 affected parcels)



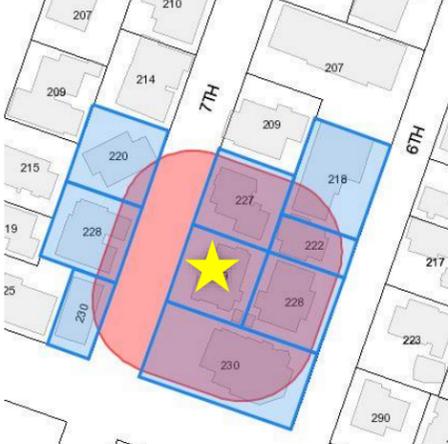
40' radius (8 affected parcels)



50' radius (8 affected parcels)



55' Radius (8 affected parcels)



60' radius (8 affected parcels)



70' radius (9 affected parcels)



80' Radius (11 affected parcels)



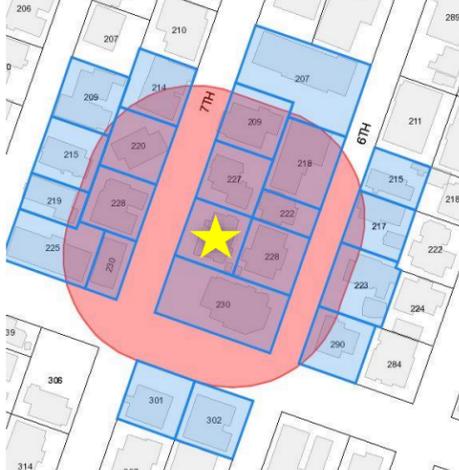
90' radius (11 affected parcels)



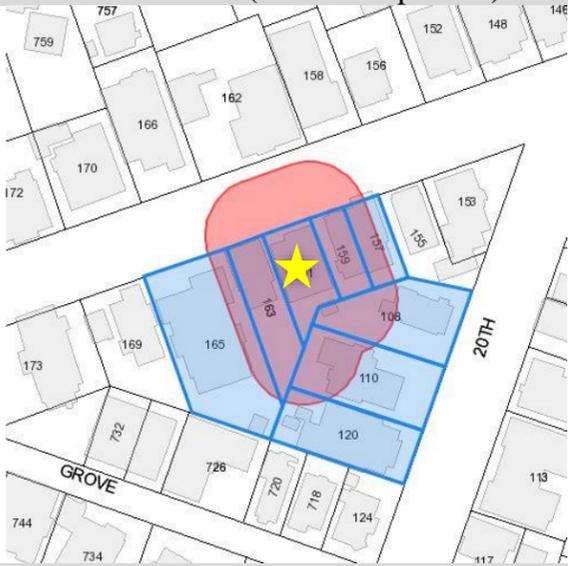
100' Radius (16 affected parcels)



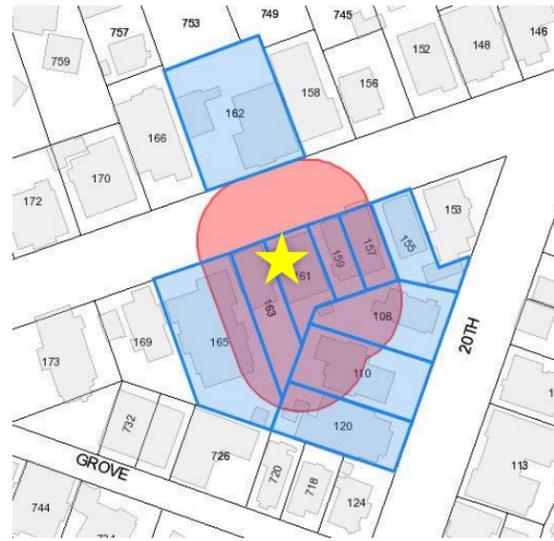
110' radius (21 affected parcels)



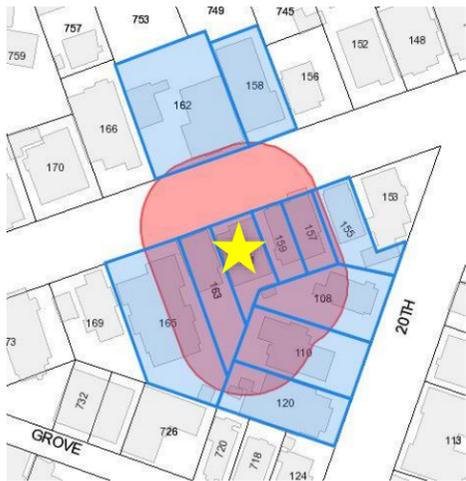
40' radius (7 affected parcels)



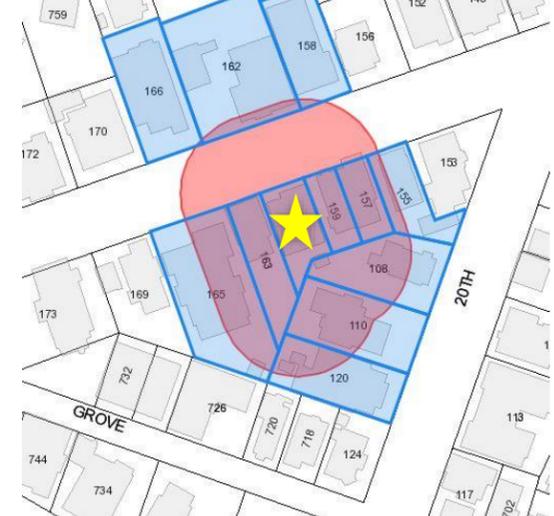
50' radius (9 affected parcels)



55' Radius (10 affected parcels)



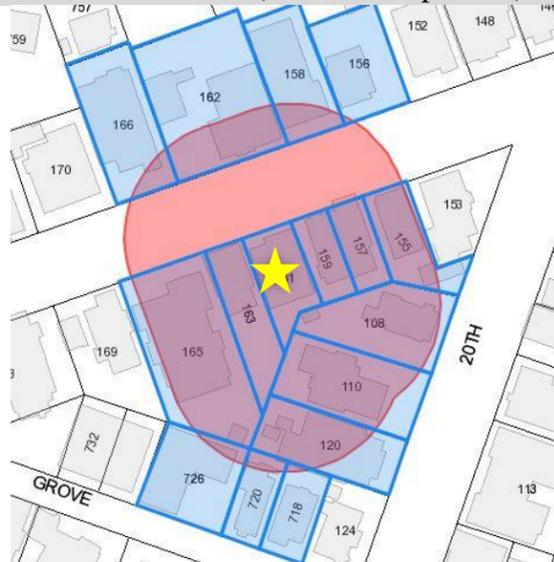
60' radius (11 affected parcels)



70' radius (13 affected parcels)



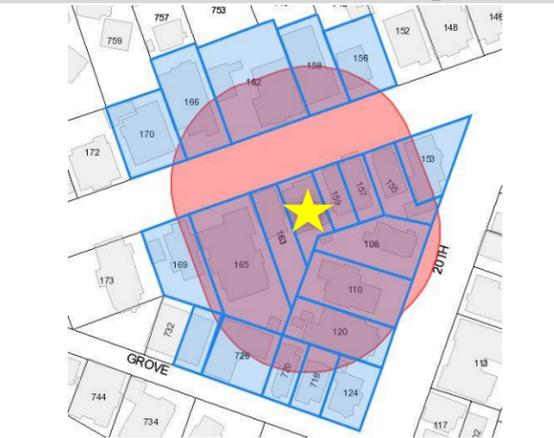
80' Radius (15 affected parcels)



90' radius (19 affected parcels)



100' Radius (20 affected parcels)



110' radius (20 affected parcels)

