

DATE ISSUED:

REPORT NO. PC-04-206

ATTENTION: Planning Commission, Agenda of October 21, 2004

SUBJECT: Council Policy 600-25, Private Development Responsibilities for the Undergrounding of Overhead Utility Lines

REFERENCE: City Manager Report 04-049; Report to the Planning Commission PC-03-362

SUMMARY:

THIS IS AN INFORMATION ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE PLANNING COMMISSION.

BACKGROUND

Municipal Code Section 144.0240 requires the undergrounding of overhead utilities for all new subdivisions, including condominium conversions. Council Policy 600-25 provides for the waiver of the undergrounding requirements if certain criteria are satisfied and subject to the discretion of the hearing body. The Planning Commission often considers condominium conversion projects. Many times, these projects contain requests for the waiver of the requirement to underground existing overhead utilities.

The Planning Commission requested information on the City's Underground Program to understand how the granting of waivers under Council Policy 600-25 affected citywide undergrounding efforts. A workshop on this issue was held with the Planning Commission on November 20, 2003. The Rules, Finance and Intergovernmental Relations Committee of the City Council considered the issue of granting waivers under Council Policy 600-25 at the Committee's meeting of March 10, 2004. At this meeting, the Committee noted that if the Planning Commission had specific recommendations on changes to Council Policy 600-25, the Committee would consider them.

DISCUSSION

In light of the Planning Commission's ongoing concerns regarding undergrounding waivers, staff has reviewed the implementation of Council Policy 600-25 in the development review process, and in the context of the City's undergrounding efforts citywide. Staff finds that, while current staff recommendations on waivers have been consistent and reasonable, some changes in the Council Policy may be warranted.

These changes would address

- Revisions to the wording of Council Policy 600-25 to reflect the established program for citywide undergrounding of existing overhead utilities; and
- Distinctions between utility lines in the public right-of-way and those on private property in the waiver of undergrounding obligations.

Citywide Undergrounding

Council Policy 600-25 was adopted in 1987 and does not fully reflect subsequent efforts to underground utilities citywide. Council Policy 600-25 allows for the consideration of waivers where there is the unlikelihood of undergrounding districts being extended to a project site under review. Staff interprets this waiver consideration as favoring a waiver in the case of a project site representing an isolated case of undergrounding for several years. The City's Underground Program will ensure that the undergrounding of existing overhead utilities is accomplished in public rights-of-way citywide. City Underground Conversion Program maps and schedules are provided to the hearing body to assist in the evaluation of waiver requests.

Another change to the wording of the Policy may include the elimination of the reference to "condominium conversion permits" and the waiver finding associated with this permit. A "condominium conversion permit" is not an approval under the current Municipal Code. Condominium conversions are accomplished through the tentative map process and are subject to applicable regulations including the Municipal Code requirements such as undergrounding and inclusionary housing.

These proposed revisions of Council Policy 600-25 are not substantive. They would clarify that staff recommendations on waiver findings are consistent with the current Municipal Code and the City's undergrounding efforts.

Onsite and Public Right-of-Way Overhead Lines

Other revisions to Council Policy 600-25 may include drawing a distinction between undergrounding obligations for existing overhead utilities in the public right-of-way and those for private property. Satisfying onsite undergrounding would be less problematic than the

undergrounding of a short span of utilities in the public right-of-way. The undergrounded onsite services would be connected to the overhead distribution system in the public right-of-way by running them up the power poles that would remain.

The City's Underground Program is funded by a surcharge on electric utility rates and through California Public Utility Commission mandates that require utility companies to underground existing overhead utilities in certain locations. It is the responsibility of the abutting property owners to underground the existing overhead utilities that bring services to their private property. Requiring the undergrounding of the onsite utilities as a condition for condominium conversions will facilitate the Undergrounding Program's schedule for completing undergrounding in a neighborhood by ensuring that more abutting properties have completed their onsite requirements.

Currently staff's recommendations have been for the waiver of all undergrounding requirements as a condition for the condominium conversions. In some instances, the Planning Commission has required that some overhead lines on a project site be undergrounded. The Planning Commission may chose to provide staff direction to require that onsite utilities be undergrounded, even when undergrounding in the public right-of-way is infeasible.

In Lieu Fees

The Planning Commission has raised the issue of the payment of in lieu fees when undergrounding obligations are waived. In lieu fees for undergrounding are currently not provided for under the Municipal Code. A fee structure and administrative procedure would need to be established if in lieu fees were proposed. There were concerns expressed by some members of the Rules, Finance and Intergovernmental Relations Committee about having an in lieu fee in addition to the electric utility surcharge. However, the Committee took no position on this issue.

A basis for the fee may be the prorated cost of the undergrounding for a neighborhood as detailed in the most current Underground Conversion Program report to the City Council. In some cases, a neighborhood in which a condominium conversion is proposed may not be undergrounded for 20 years or more. It is anticipated that there will be an administrative cost for managing the in lieu fees that might be collected. The fiscal impact of administering in lieu fees is undetermined at this time.

CONCLUSION

The waiver of undergrounding obligations on subdivisions is sometimes warranted. The piecemeal undergrounding of overhead utilities in the public right-of-way can be impractical, and may not contribute to orderly and cost-effective undergrounding. Clarification of the provisions of Council Policy 600-25 would strengthen the waiver findings by making the Policy consistent with the Municipal Code and the City's undergrounding efforts. The Planning Commission has discretion in granting undergrounding waivers and may recommend changes to

Council Policy 600-25 or the Municipal Code to address any ongoing concerns. Any recommendations by the Planning Commission will be forwarded to the Rules, Finance and Intergovernmental Relations Committee.

Respectfully submitted,

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Attachment: 1. Municipal Code Section 144.0240
2. Council Policy 600-25, Underground Conversion of Utility Lines at Developer Expense

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