



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

739 Bridgeway – Underground Variance Request

RECOMMENDED MOTION:

Accept Report, Adopt a motion approving an Undergrounding Variance request.

SUMMARY

D.J. Puffert, property manager of 739 Bridgeway (aka Paterson's) has requested that the Council approve the waiver of the requirements of Municipal Code Section 18.08.020B. This section requires that utility service laterals be undergrounded when the electrical panel capacity is increased. Paterson's is undergoing a remodel to change and improve their services to the community. The Electrical panel is being changed to a 200 Amp service with the remodel.

Staff recommends granting the request.

BACKGROUND

Paterson's at 739 Bridgeway is undergoing a remodel to enable greater emphasis on dining. As part of the remodel work the electrical wiring is being re-done including a panel change to allow 200 amp electrical loads. This is an increase from existing capacity. During the permit process the applicant was informed of the need to underground all above ground utility services pursuant to Section 18.08 of the Sausalito Municipal Code. In reaction, the property manager applied for a variance from the Municipal Code Requirement. The application was made on May 7th, 2008.

The City Engineer, staff to the Underground Committee, coordinated with committee members and a meeting was scheduled for July 7th, 2008. On that day two of the four members came to the meeting. The committee has one vacancy. Without quorum no action could be taken.

The Underground Committee meets irregularly. In recent times meetings have been arranged to mostly consider underground variance requests. The last meeting occurred April 27, 2007. With the most recent coordination effort direction was given to staff to

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schedule meetings on the first Monday of the month. Given that most City Boards and Committees are on a break in August and the applicant is trying to complete the remodel work before the end of July, waiting until September to have this matter finally determined is unacceptable to the applicant. The applicant has requested City Council consideration instead of the Underground Committee.

Section 18.08.040 of the Sausalito Municipal Code requires that a request for a variance from the undergrounding requirements be submitted to the Undergrounding Committee within 45 days of filing. Any action taken by the Committee may be appealed to the City Council. In this case the matter was submitted to the Committee within the requisite timeframe but the Committee was unable to take action due to the lack of a quorum. Therefore, the matter is being presented to the City Council for consideration.

ISSUES

Municipal Code Section 18.08 is the Codification of Ordinance 851. Engineering Files suggest that this ordinance was adopted on October 15, 1974. A copy of the Code Section is attached for reference.

Attached to this report is the staff report to the Underground Committee. Staff recommended approval of the variance as a result of undergrounding costs being large as compared to the remodel costs. Municipal Code Section 18.08.040 allows undergrounding exceptions due to hardship. The applicant has claimed that the costs are excessive as compared to the remodel project costs. The applicant also cites that the current utility service does not impact views or community aesthetics.

Municipal Code Section 18.08.040 doesn't define the parameters for hardship. The Underground Committee developed guidelines to better administer the regulations. Engineering files suggest that the City Council adopted these Guidelines on September 2, 1999. A copy of the Underground Committee Guidelines is attached.

Although the Underground Committee couldn't take action on July 7th Committee Members indicated to staff that they would deny the request as a result of Hardship Guideline 2 which disallows variance requests to commercial or rental property.

OPTIONS

1. Follow the guidelines and deny the request.
2. Consider the applicants facts and grant the request.
3. Consider the applicants request conditionally approving the request.

4. Defer consideration and direct the applicant back to the Underground Committee for consideration.

The cost to underground well exceeds the 1% threshold established in the guidelines. Unfortunately, that threshold was established for owner occupied single family dwellings, not commercial buildings. The building housing 739 Bridgeway has other businesses and apartments and is a commercial building. The applicant has indicated that the owner's granddaughter is an occupant of one of the apartment spaces.

Electrical Service is available along Bridgeway. The neighborhood was in an underground district around 1990. It is not known why some of these adjacent buildings service laterals were not undergrounded at that time. This mainline undergrounding work coincided with the rehabilitation of the downtown area. The downtown area underwent rehabilitation as a result of an assessment district that current staff understands as being funded by the businesses in the area.

There is not a side yard to route an underground lateral service. Work to install underground facility may need to occur by cutting the floor and foundations. Alternatively allowing an in-tenant-space conduit run from the panel (located at the back of the building) to the front of the building may be possible physically. The City Engineer does not know if the Electrical Codes allow such facilities.

Alternatively, undergrounding service from Bulkley could occur. Such service would require excavation into the rocky hillside bluff above Bridgeway. The applicant would likely need to acquire an easement. This alternative has not been aggressively explored by the applicant.

Strict interpretation of the Underground Committee Guidelines means that the applicant should be required to underground. Paterson's, like many businesses in Sausalito, is small. While they were able to afford the remodel work currently underway, complying with the Municipal Code requirement, too, may make the project too costly to complete. Minimally, the payback period would be extended further out than the applicant believes is reasonable.

Staff believes that the entire building needs to be rewired to provide underground service. The building has and continues to be operated as tenant lease spaces. As a result, major such work is beyond the means of the various tenants. This major work on the building gets marginalized and is done only when absolutely needed. Staff believes that the time for the underground is not right now. As such staff recommends that the Council grant the request.

Alternatively Council could condition the request by requiring a deferred improvement agreement to be implemented at a future date, possibly the next tenant space remodel.

FISCAL IMPACT

None.

STAFF RECOMMENDATIONS

Accept the above status report. Adopt a motion granting the variance request.

ATTACHMENTS


Underground Committee Report
Municipal Code
Underground Committee Guidelines

PREPARED BY:



Todd Teachout, City Engineer

REVIEWED BY (Department Head):




for Vacant, Director of Public Work

Reviewed by:



Mary Wagner, City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager



STAFF REPORT

SAUSALITO UNDERGROUND UTILITY COMMITTEE

AGENDA TITLE:

Undergrounding Variance Request – 739 Bridgeway, D. J. Puffert/D. Olsen

RECOMMENDED MOTIONS:

1. Motion to grant variance request
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SUMMARY

Walter Silva, owner of 739 Bridgeway, was granted design review approval to remodel the business known Patterson's. The remodel includes a panel upgrade to 200 Amp service. The property owner and his representatives, D.J. Puffert and Don Olsen, were informed of the Municipal Code requirement to underground the service lateral. The owner has applied for a variance, waiving the Muni-code requirement.

Power is currently served from an above ground lateral service line connected to the PG&E electrical distribution lines on Bulkley. Work is proceeding and is expected to be completed by the end of August.

Muni Codes section 18.08.020B requires electrical services to be undergrounded when the main electrical panel is replaced. Muni Code section 18.08.040 allows exceptions to the requirement due to hardship.

The applicant is requesting a variance because:

1. Views are not impacted by the service lateral.
2. Other businesses use the line so it won't go away.
3. Requiring the undergrounding will necessitate additional unanticipated electrical work to serve office and/or apartment spaces above the restaurant.
4. The applicant is claiming hardship due excessive cost.

The project valuation for the remodel was listed on Building Permit No. 08115 as \$83,000. The lowest cost for the undergrounding work is \$68,000. Guideline 3 sets a standard of 1% of market value of for the undergrounding work. Market value is unknown however Assessed Value of the property is \$241,226. The cost of the undergrounding work is 28%, well in excess of the Committee's cost threshold guideline.

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Pursuant to UGC Guideline 3, Staff recommends the Committee approve the variance request.

ATTACHMENTS

PREPARED BY:



Todd Teachout, City Engineer

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CITY OF SAUSALITO
420 LITHO STREET
SAUSALITO CA 94965

PH: (415) 289-4100 / FAX: (415) 339-2256 / www.ci.sausalito.ca.us

RECEIVED
MAY 07 2008
CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT.

UNDERGROUND VARIANCE APPLICATION

Owner Information

Date:

29 APRIL '08

Owner Name:

WALTER SILVA & P.J. PUFFERT

Owner Signature:

Owner Mailing Address:

P.O. Box 3095

Telephone Numbers:

332-0739

Reason Owner claims hardship as a result of the requirement to underground

Please attach narrative, including a description of the remodeling project and provide a cost estimate for this work.

RESTORATION OF 739 BRIDGEWAY

Cost Estimate Summary

Remodeling Project Cost Estimate: _____

Undergrounding Cost Estimate No. 1: _____

Undergrounding Cost Estimate No. 2: _____

Property Information

Project Address:

739 BRIDGEWAY

Zoning of Property:

C.C

Present Use of Property:

COMMERCIAL & RESIDENTIAL

Use of Property after remodel:

COMMERCIAL & RESIDENTIAL

Current Property Value: \$ _____

Is the Property owner-occupied?

NO

Does Property generate income in any part?

YES

Utilities Information

PG&E Contact Phone#:

Fee:

\$ 363⁰⁸

62845

V2 08002

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RECEIVED

July, 09, 2008

JUL 09, 2008

Sausalito City Council
420 Litho Street
Sausalito CA, 94965

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT

**RE: Request to be Heard Regarding
Underground Variance for 739 Bridgeway**

Dear Commissioners,

We are requesting to be heard by the Council regarding the matter of our application for variance addressing the undergrounding of the electrical power supply to our project at 739 Bridgeway.

We are making this request after attempting to resolve this issue through the standard protocol of being heard by the Underground Committee. The Underground Committee has not been able to be available to us for more than two months.

As you know, municipal code mandates that the Underground Committee has forty five day to take action on applications. Our original application for the variance was submitted to, and received by, the Community development Department on May 07, 2008. More than sixty days ago.

After multiple, unsuccessful, attempts by the City Engineer to schedule a hearing with the Underground Committee, there was finally a hearing scheduled for July 07, 2008. Unfortunately, on the date and time of the scheduled hearing, only two of the four committee members were present for the hearing. This created the situation of not having a quorum, and again leaving the issue unresolved. We feel the next appropriate action to be taken is to have this matter heard by the City Council in order to resolve this issue in a timely manner. The result of further delays in resolving this issue will create undue financial hardships for the applicant.

We have exhausted all standard procedures without success and would sincerely appreciate your taking up this matter in order to help us get this resolved.

Thank you for your consideration,
Sincerely,



Don Olsen, AIA
Donald K. Olsen, AIA & Associates

RECEIVED

JUL 09, 2008

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT

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■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
D O N A L D O L S E N
A R C H I T E C T & A S S O C I A T E S

June 10, 2008

City of Sausalito
420 Litho Street
Sausalito, CA 94965

ATTN: Todd Teachout
City Engineer

RE: Underground Variance

Dear Todd:

This is a request for a Variance from the underground requirement which is triggered by our increase in service of 200 amps. No additional items will be attached to the existing pole.

The existing power pole which services the overhead service to 739 Bridgeway will remain as it provides services to other properties within the area.

This area behind 739 Bridgeway on the west side of Bridgeway is very overgrown and the hillside extremely steep and unstable. In the 1970's the slope gave way to a landslide that brought soil down through 739 Bridgeway and out the front door to the street.

Attached are photos of the site.

Sincerely,



Donald K. Olsen, AIA
DONALD K. OLSEN, AIA & ASSOCIATES

DKO/cab

RECEIVED

JUN 10 2008

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT.

led
ca

SBC Contact Phone#:

Fee: \$ _____

Cable TV connection fee: (if not already undergrounded) \$ _____

FIRST COST ESTIMATE

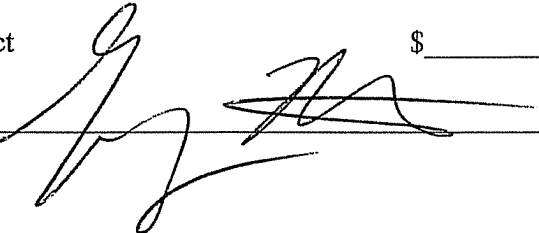
Contractor and Cost Information

Contractor Name: Gary A Miles

Contractor License# 724487

Phone Number 707-484-4467

Valuation of Undergrounding Project \$ _____

Contractor's Signature 

Cost Estimate

To consider the variance request it is necessary to evaluate the cost impacts to the applicant. The table below is an example of work items that may be needed to perform undergrounding construction. Please provide construction cost estimate using the table below or by providing a separate estimate sheet. Add any additional work items as necessary.

Undergrounding Work Cost Estimate

Item Description	Quantity	Unit	Unit Price	Total Price
Trench		Linear Feet		
Conduit		Linear Feet		
Conductor		Linear Feet		
Panel	1	Each		
Structures (Pull Boxes, etc)		Each		
Traffic Control	1	Job	Lump Sum	
			Total Cost	<u>68,000</u>

Total Remodel or new Construction Costs

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Please attach an itemized contractors estimate for overall construction costs. This estimate can exclude those items covered under the Undergrounding Work Cost Estimate.

Please attach all supporting documents

SECOND COST ESTIMATE

Contractor and Cost Information

Contractor Name: GEORGE LUTZ

Contractor License# 628530

Phone Number 898-5375

Valuation of Undergrounding Project \$ 95,000⁰⁶

Contractor's Signature _____

Cost Estimate

To consider the variance request it is necessary to evaluate the cost impacts to the applicant. The table below is an example of work items that may be needed to perform undergrounding construction. Please provide construction cost estimate using the table below or by providing a separate estimate sheet. Add any additional work items as necessary.

Undergrounding Work Cost Estimate

Item Description	Quantity	Unit	Unit Price	Total Price
Trench		Linear Feet		
Conduit		Linear Feet		
Conductor		Linear Feet		
Panel	1	Each		
Structures (Pull Boxes, etc)		Each		
Traffic Control	1	Job	Lump Sum	
Total Cost				<u>95,000</u>

Total Remodel or new Construction Costs

Please attach an itemized contractors estimate for overall construction costs. This estimate can exclude those items covered under the Undergrounding Work Cost Estimate.

Please attach all supporting documents

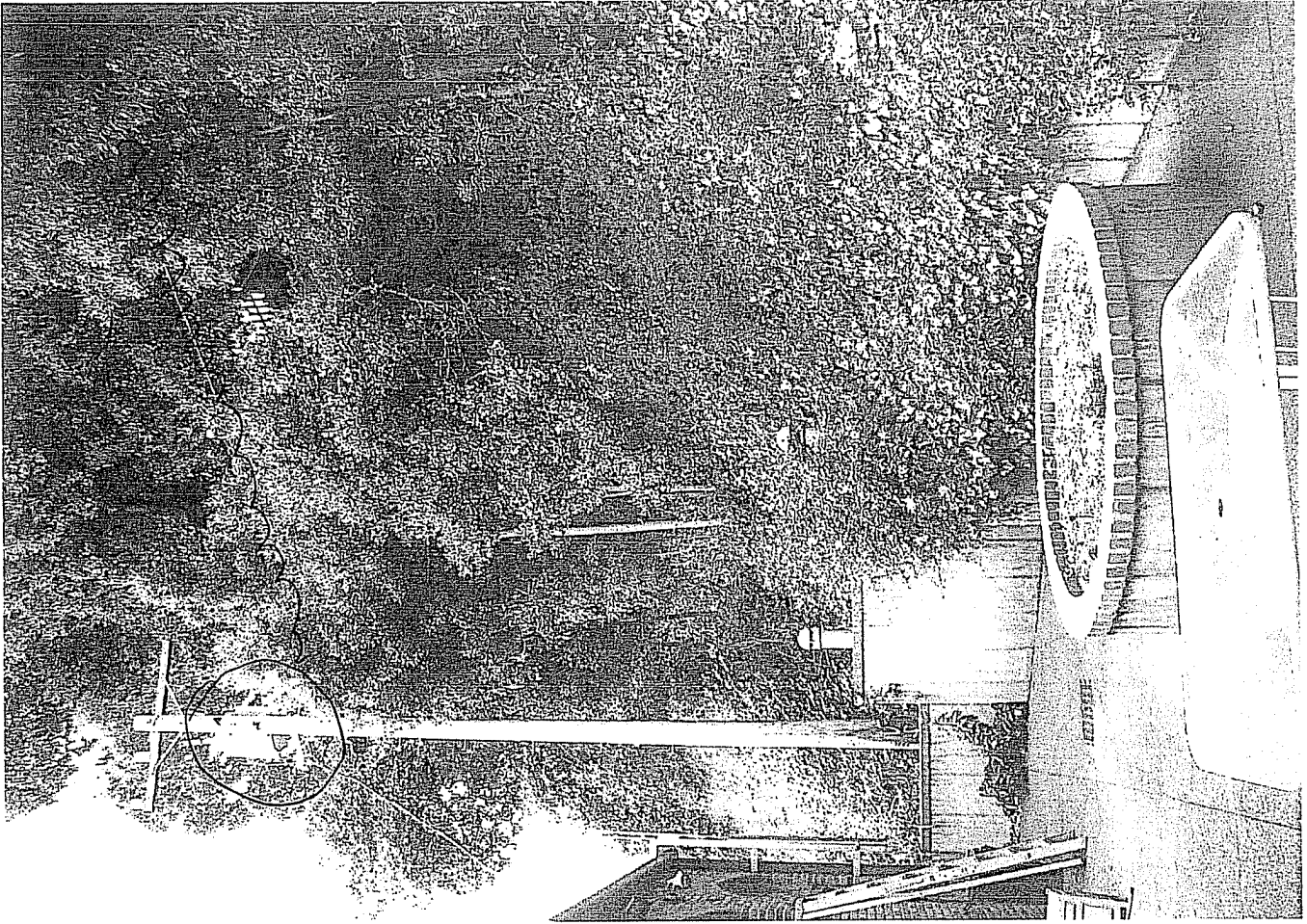
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UNDERGROUND VARIANCE APPLICATION SUBMITTAL CHECKLIST

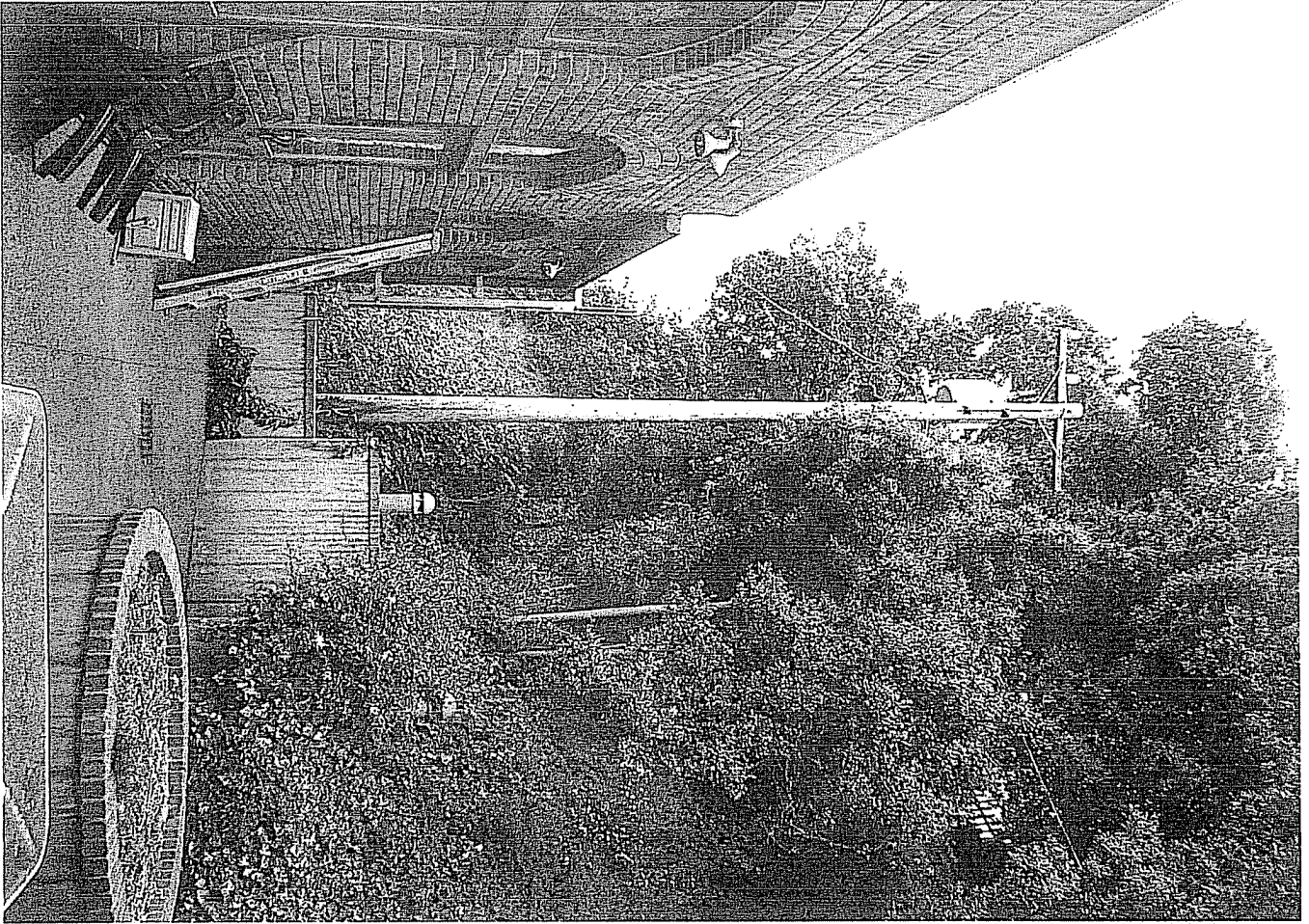
- Ensure the Application is completely and clearly filled out.
- Supply construction estimates from two different contractors.
- Provide a plan with dimensions for existing and proposed improvements showing:
 - Structure.
 - Electrical panel.
 - All utility poles serving property (and those poles within 150ft of any portion of the property).
 - Direction of lines coming off of the utility pole.
 - Edge of pavement of the street adjacent to the property.
 - Show all retaining walls, trees or any other significant obstacle/structure.
- Include photos of all areas in question.
- Turn this application into the Community Development Department no less than one week prior to Committee meeting date for inclusion in that meeting otherwise Variance will be heard the following meeting. Incomplete applications will be held and the applicant will be notified of it being incomplete. An incomplete application that is not made complete within one month of notification will be returned to applicant and consider withdrawn. Please note: The Sausalito Building Inspector will be notified of withdrawn applications. Work performed in violation of the City of Sausalito Building and Municipal Codes may be subject to penalties and correction orders.



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Chapter 18.08UNDERGROUND ELECTRICAL WIRING AND FACILITIES

Sections:

- 18.08.010 Findings and determination.
- 18.08.020 New extensions of utility facilities to be underground.
- 18.08.030 Exceptions.
- 18.08.040 Application for exception due to hardship.
- 18.08.050 Existing facilities.
- 18.08.060 Undergrounding committee created--Purpose.
- 18.08.070 Penalty for violation.

18.08.010 Findings and determination. The city council finds and determines that the public safety and community aesthetics require that facilities and wires for the extension of existing facilities for the supply and distribution of electrical energy and service, including communication service, shall be placed underground in order to promote and preserve the health, safety and general welfare of the public and to assure the orderly development of the city. (Ord. 1077, 1992: Ord. 851 §1, 1974.)

18.08.020 New extensions of utility facilities to be underground. It is required that:

A. All new extensions of existing utility distribution facilities (including, but not limited to, electric, communication, and cable television lines), hereafter constructed or installed in the city shall be placed underground.

B. All electric and communication service laterals, including cable television service, to any new residential or commercial building or structure, or to any residential or commercial building or structure or utility services being remodeled, when such remodeling requires the relocation or replacement of property owner's main electrical service equipment, shall be placed underground from the main service facility within such building or structure, to a location designated by the supplying utility, in accordance with the supplying utility's rules, regulations, and tariffs on file with the California Public Utilities Commission. A property owner shall be responsible for compliance with this section and shall make the necessary arrangements with the public utilities involved. The undergrounding committee may grant exceptions from this requirement where the undergrounding committee finds that undergrounding of utility service laterals will cause unnecessary or unusual hardship.

C When the main electrical service is undergrounded, all other electrical, communication service laterals and cable television service laterals shall also be undergrounded

D Wires, excluding utility's overhead service drops, attached to exterior surfaces of structures by means of brackets or other means and/or between buildings or to private poles and tree-mounted lights, etc., shall be undergrounded when the main electrical service is undergrounded

E. Services to undergrounded facilities shall themselves be underground in such a fashion as to avoid additional poles or transformers thereon

F. It will be the responsibility of the applicant for electric communication or similar or associated service to make the necessary arrangements with the utility companies involved for the underground installation of wires and facilities required for such new extension and/or service, all in accordance with applicable rules, regulations and tariffs of the respective utilities on file with the California Public Utilities Commission.

G Pole mounted transformers shall not be used for new service installations to:

- 1 Three phase loads,
2. Loads requiring a transformer installation of 75 KVA or larger.

H Additional poles, location of new transformers and increased height of existing poles shall be reviewed and approved by the director of public works who shall notify the undergrounding committee of the request upon receipt of the request (Ord. 851 §2, 1974).

18.08.030 Exceptions. This chapter shall not apply to the following types of facilities:

A. Any temporary municipal equipment of facilities installed under the supervision of and to the satisfaction of the city engineer;

B Poles or electroliers used exclusively for street lighting but excluding the services leading to them;

C. Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred (34,500) volts,

D. Antenna-associated equipment and supporting structures used by utility for furnishing communication services,

E. Equipment appurtenant to underground facilities such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets and concealed ducts;

F. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects to provide temporary service. (Ord. 851 §3, 1974).

18.08.040 Application for exception due to hardship. Where the enforcement of the provisions of Section 18.08.020 would result in undue hardship, application for exception from the provisions thereof may be made in the following manner:

A. Written application shall be filed with the director of public works;

B. Such application shall include all information necessary to properly apprise the director of public works of the circumstances existing which requires such exception;

C. The director of public works shall consider the application and shall, within fifteen (15) days after the filing of such application, submit the same to the undergrounding committee for action within forty-five (45) days after filing with the director of public works. Any action taken by the committee may be appealed to the city council (Ord. 851 §4, 1974)

18.08.050 Existing facilities. The provisions of Section 18.08 020 shall not prohibit the maintenance and operation of existing overhead facilities nor prohibit the installation of overhead service lines to facilities already serviced by at least one overhead utility service nor prohibit the connection of underground service lines to existing overhead utility distribution equipment. The utility may continue to maintain, repair, replace and reinforce any facility or structure in order to maintain the integrity of any facility or structure existing on or before the effective date of the ordinance codified in this chapter. (Ord 851 §5, 1974).

18.08.060 Undergrounding committee created--Purpose.

For the purpose of administering the provisions of this chapter, an undergrounding committee is created consisting of five residents of the city, one of whom shall be a member of the planning commission as appointed by the city council. All members of the undergrounding committee shall be appointed by the city council for terms of three years, said terms to be staggered so that the terms of not more than two members expire in a single year. City council appointments to the committee shall be governed by the provisions set forth in Chapter 2 58 of this code. (Ord. 1153 §1, 2001; Ord. 1132 §1, 1998; Ord. 1042 §1, 1988; Ord. 851 §6, 1974).

18.08.070 Penalty for violation.

Any person convicted of violating the provisions of this chapter shall be guilty of an infraction and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars (\$100.00). Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of the provisions of this chapter is committed or continued or allowed to continue by such person and shall be punishable as provided in this chapter. (Ord. 851 §7, 1974).

UNDERGROUND COMMITTEE GUIDELINES

Undergrounding Requirements for Normal Request:

1. In the case where access to utilities is on same side of street, owner will provide underground access to the facilities and eliminate all overhead wires.
2. In the instance where access to utilities is on opposite side of street and a hardship variance is justified, owner will provide undergrounding to the curb and City will supply access across the street to the utility access point. (In the event City will not do the street crossing, owner will still supply access to the curb and overhead wiring will remain in use until such time as a district is formed to complete the undergrounding.)
3. In the instance where an ampage upgrade only is required (i.e. 60 to 100 Amp or Fuse to Breaker), upgrade may be done without further undergrounding, provided that provision is made to facilitate future undergrounding at the house meter. This will apply to both owner occupied residences as well as single family and multi-family rental properties.

Hardship:

1. No variance for hardship will be granted unless cost exceeds 1% of Market Value in owner-occupied single family dwellings. Market Value may have to be independently confirmed.
2. No variance for hardship in rental or commercial property will be granted.

Variances:

1. In all cases where a variance is approved, applicants shall agree to participate in a future underground utility district in conformance with the General Plan for utility undergrounding in the City of Sausalito.

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