



STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: GREG RAY, PUBLIC WORKS DIRECTOR/CITY ENGINEER 
JANET REESE, PLANNER II 

SUBJECT: REQUEST FOR WAIVER OF UNDERGROUND UTILITY REQUIREMENTS
DUE TO IMPRACTICALITY FOR DEVELOPMENT PERMIT APPLICATION NO.
10-029 (885 SOUTH 13TH STREET)

BACKGROUND

The project site is a 33,125 square foot parcel and developed with a 3,836 square foot community center, a 410 square foot detached storage building, a 257 square foot patio cover for an outdoor barbeque, and a parking lot with 60 parking spaces. The service lines were previously undergrounded as part of an addition in 1978, but the overhead lines on the property frontage remain (see Attachment 3).

On March 15, 2011, the Planning Commission approved a proposal from the Filipino Community of San Luis Obispo County, Inc., to add a 470 square foot storage room to its existing community center building. Because it was unclear whether the existing detached storage building and patio cover over the barbeque area were permitted, the approval also included these two structures. This addition and all previous additions completed in the last ten years amount to a 23% increase in covered space.


Undergrounding Utility Ordinance No. 04-15 was adopted on December 6, 2004 and became effective on January 5, 2005 (see Attachment 4). It amended and/or clarified that the main utility lines along property frontages were to be undergrounded for all construction projects, unless the project qualified for one of the specific exemptions provided in the ordinance.

GBMC Section 9137.28(E) allows the Council to waive all or part of the requirements where the application of the requirement:

- Would create a substantial financial hardship;
- Would be impractical; or
- Would not be in the best interest of the City or the public.

The applicant is requesting a waiver claiming it is impractical to underground utilities or pay an in-lieu fee that exceeds the cost of the addition by more than double. Though technically speaking, the applicant is not eligible for the in-lieu fee option because the request needed to be made prior to approval by the Planning Commission, the in-lieu fee is a reasonable reflection of minimum costs that could be incurred if undergrounding was to be performed by the applicant.

APPROVED FOR FORWARDING



ROBERT PERRAULT
CITY MANAGER

Please Review for the Possibility of a Potential Conflict of Interest:

- | | |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright |
| <input type="checkbox"/> Shoals | <input type="checkbox"/> Molnar |
| <input type="checkbox"/> Nicolls | <input type="checkbox"/> Peterson |

Meeting Date: June 6, 2011

Agenda Item No. 3

DISCUSSION

Substantial overhead utility lines are located along the site's 13th Street frontage, with poles located mid-block, on north side of Nice Avenue, and south side of Baden Avenue.

Based on the project's 265 foot frontage, the in-lieu fee would total \$79,500. Most likely the actual cost of undergrounding would far exceed that amount. When balanced against the estimated cost for the project which was approved by the Planning Commission (Using the values in the building permit program, the addition has a value of \$25,605, the existing storage shed \$9,963, and the existing patio cover \$2,827 for a total of \$38,395.), the requirement to underground is clearly prohibitive and impractical.

Staff believes the findings that the undergrounding requirement would be impractical can be made because undergrounding the utility lines is many times more than the estimated cost of the project. The language of the impracticability exception in the Municipal Code provides a solution that would be applicable specifically for this type of situation.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Adopt the resolution granting the waiver of underground utility requirements; or
2. Adopt the resolution denying a waiver of underground utility requirements; or
3. Provide additional direction to staff.

RECOMMENDATION

It is recommended that the City Council 1) conduct the public hearing, receive testimony; and 2) adopt the resolution granting the waiver of underground utility requirements.

FISCAL IMPACT

None Identified.

PUBLIC NOTIFICATION

On May 27, 2011, the public hearing notice was published in The Tribune, property owners within 300 feet of the property were mailed a notice of the public hearing, and a public hearing notice was posted at the project site. In addition the agenda was posted in accordance with the Brown Act.

ATTACHMENTS

- 1 Resolution No. 11-__ granting the waiver of underground utility requirements
- 2 Resolution No. 11-__ denying the waiver of underground utility requirements
- 3 Vicinity Map
- 4 Ordinance No. 04-15
- 5 Request from Applicant

RESOLUTION NO. 11-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH,
CALIFORNIA, GRANTING A REQUEST FOR WAIVER OF THE UNDERGROUND UTILITIES
REQUIREMENT FOR DEVELOPMENT PERMIT APPLICATION NO. 10-029
(885 SOUTH 13TH STREET)**

WHEREAS, the City received a request to waive the requirement to underground utility lines along the frontage of 885 South 13th Street; and

WHEREAS, the City Council on June 6, 2011, conducted a Public Hearing, which was noticed in accordance with applicable laws, and considered the request, public input, and recommendations by staff; and

WHEARAS, the estimated \$30,000 cost and value of the project is far outweighed by the cost of meeting the undergrounding of utilities requirement, which is at minimum estimated to be \$79,500; and

WHEREAS, the City Council, consistent with Grover Beach Municipal Code Section 9137.28(E)(1), based on the evidence presented is hereby making the finding that the strict application of Grover Beach Municipal Code Section 9137.28 would make compliance impractical.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby grants the requested waiver based upon the fact that compliance with the requirement would be impractical.

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

the foregoing Resolution was **PASSED, APPROVED**, and **ADOPTED** at a regular meeting by the City Council of the City of Grover Beach, California this 6th day of June, 2011.

JOHN P. SHOALS, MAYOR

Attest:

DONNA L. McMAHON, CITY CLERK

RESOLUTION NO. 11-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH,
CALIFORNIA, DENYING A REQUEST FOR WAIVER OF THE UNDERGROUND UTILITIES
REQUIREMENT FOR DEVELOPMENT PERMIT APPLICATION NO. 10-029
(885 SOUTH 13TH STREET)**

WHEREAS, the City received a request to waive the requirement to underground utility lines along the frontage of 885 South 13th Street; and

WHEREAS, the City Council on June 6, 2011, which was noticed in accordance with applicable laws, conducted a Public Hearing and considered the request, public input, and recommendations by staff; and

WHEREAS, finds that the overall benefit received from the project to the Applicant is not outweighed by the estimated cost undergrounding the utilities; and

WHEREAS, consequently the City Council is unable to make the finding that the strict application of Grover Beach Municipal Code Section 9137.28 would be impractical.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby denies the requested waiver.

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a regular meeting by the City Council of the City of Grover Beach, California this 6th day of June, 2011.

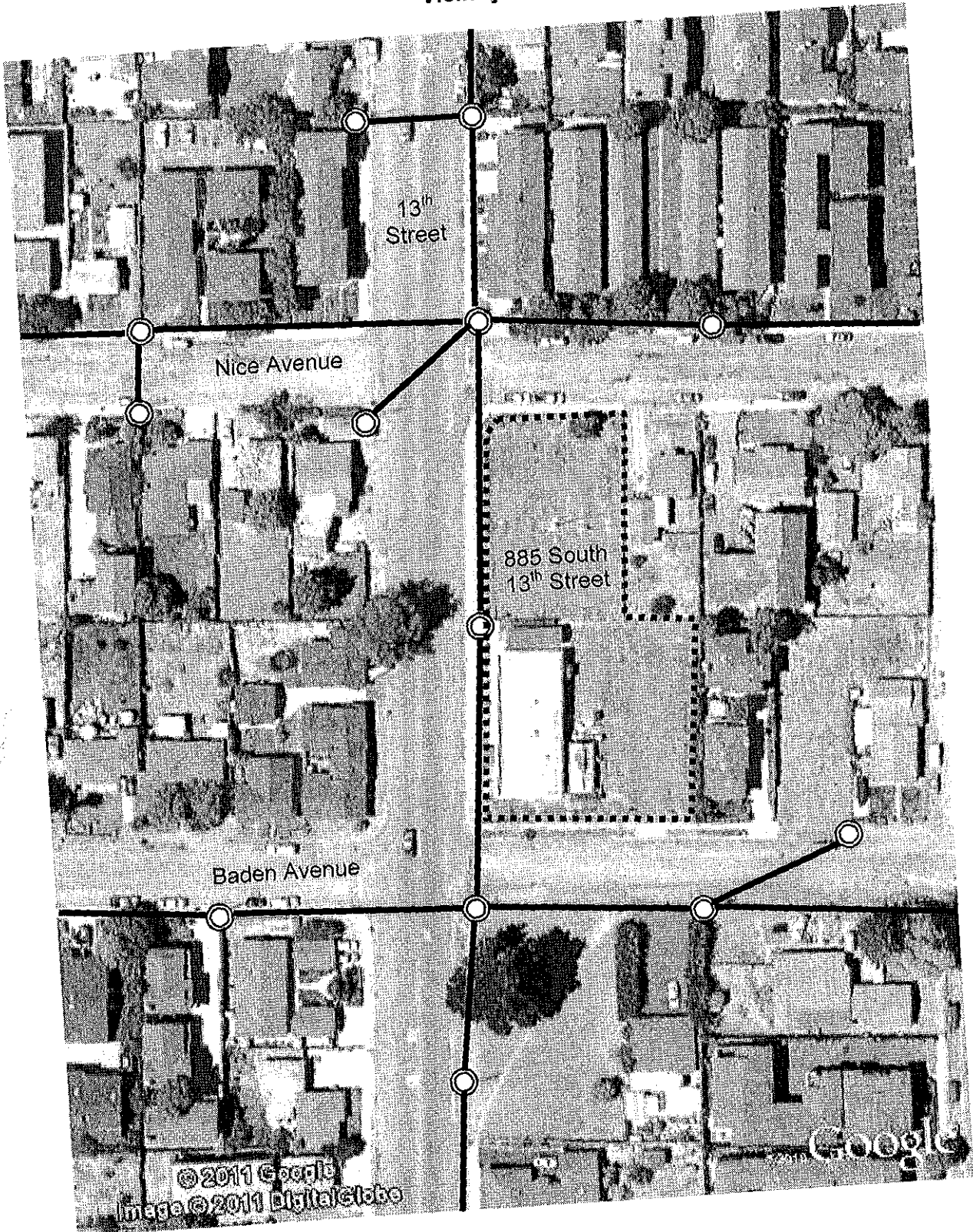
Attest:

JOHN P. SHOALS, MAYOR

DONNA L. McMAHON, CITY CLERK

DRAFT

Vicinity Map



- Utility Pole
 - Overhead Utility Line(s)
- Note: service lines to properties are not shown*

ORDINANCE NO. 04-15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, AMENDING ARTICLE IX ZONING REGULATIONS, CHAPTER 1, PART 37 GENERAL PROVISIONS, CONDITIONS AND EXCEPTIONS OF THE CITY OF GROVER BEACH ZONING REGULATIONS AMENDING SECTION 9137.28 RELATING TO THE INSTALLATION OF UNDERGROUND UTILITIES

WHEREAS, the City Council of the City of Grover Beach adopted Resolution No. 04-64 on August 16, 2004 initiating an ordinance amendment to Section 9137.28 modifying the criteria causing the installation of underground utilities; and

WHEREAS, the City Council wishes to encourage reinvestment and infill development without causing undue financial hardship for its residents; and

WHEREAS, the City Council on October 4, 2004 received a report identifying issues, concerns, limitations, and options for consideration to cause appropriate infrastructure to be installed by property owners where remodeling and new construction occurs; and

WHEREAS, the City Council directed staff to prepare an ordinance amendment to implement a square footage method to calculate the trigger for installation of underground utilities; and

WHEREAS, the City Council wishes to encourage neighborhoods to convert overhead utilities to underground utilities utilizing the Rule 20B and 20C programs provided by Pacific Gas and Electric, and

WHEREAS, the City Council conducted the first reading and introduction on November 15, 2004.

NOW, THEREFORE, the City Council of the City of Grover Beach, California, **DOES HEREBY ORDAIN AS FOLLOWS:**

PART 1. Article IX Zoning Regulations, Chapter 1, Part 37 General Provisions, Conditions, and Exceptions, Section 9137.28 Underground Utilities of the Grover Beach Municipal Code is amended to read as follows:

Sec. 9137.28 Underground Utilities.

(A) The requirements of this Section shall apply whenever a building permit is required for the construction of a new building or remodeling of or additions to an existing building unless exempted by subsection (B) of this Section.

(1) All existing and proposed utilities, including but not limited to, electric lines, communications lines, cable television lines, gas lines, and appurtenances thereto, shall be placed underground except those facilities exempted by Public Utilities Commission regulations and subsection C of this Section. All utility facilities, including service laterals, shall be installed in the ground and pressure tested prior to paving of streets.

- (2) Certain utility appurtenances including, but not limited to, transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts used in connection with underground facilities may be placed on the surface of the ground.
 - (3) A site utility plan shall be required as part of a building permit application for a development that is required to underground utilities. All necessary arrangements for the installation of utilities shall be made with the operator of each proposed utility system.
- (B) Applicability: This Section shall apply in all areas and zones of the City where a building permit is required for new construction, remodeling, or additions as provided below:
- (1) New construction where a building permit is required.
 - (2) New construction, remodeling or additions to commercial, industrial or multi-family residential buildings, structures, or additions where a building permit is required.
- (C) Exceptions: This Section shall not apply to new construction, remodeling or additions to single-family residential units as provided below:
- (1) One new single-family residential unit constructed on one independent lot where the lot was not created as part of a subdivision or parcel map that required the installation of underground utilities and where no utility pole exists on the property.
 - (2) Two new single-family residential units constructed on one independent lot where the lot was not created as part of a subdivision or parcel map requiring undergrounding of utilities and where no utility pole exists on the property. The main utility lines are not required to be installed underground; however, all interior utility lines must be installed underground.
 - (3) Second Dwelling Units as provided by Section 9137.22 where the lot was not created as part of a subdivision or parcel map requiring undergrounding of utilities. The main lines are not required to be installed underground; however, all interior utility lines must be installed underground.
- (D) Timing: In cases where this Section is applicable, the owner or person applying for such permit shall install utilities underground prior to the issuance of a certificate of final inspection on a building permit or other certificate of compliance with applicable permit conditions.
- (E) City Council Authority: The following regulations shall be applicable to cases coming within the provisions of this Section:
- (1) The City Council may waive all or part of the requirements of this Section upon application for such waiver in cases where in the sole discretion of the City Council the strict application of this Section would create substantial hardship, would be impractical, or would not be in the best interests of the City or the public.
 - (2) The Council may extend the time for compliance with the provisions of this Section and may require such cash or other bond as it deems suitable to guarantee compliance with this Section within such time limit as it may specify.


- (3) Filing fee (Appeal Fee as established by the City Master Fee Schedule) shall be required for the application to the City Council under this Section.
- (4) No improvements referred to in this Section shall be constructed until undergrounding of utilities have been prepared by the applicant, reviewed and approved by the utility companies, and have been approved by the City.
- (5) Each request for waiver of the requirements of this Section shall be acted upon independently by the Council based upon the particular facts involved.

PART 2. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

PART 3. This Ordinance shall become effective thirty (30) days after the date of its adoption by the City Council. Within fifteen (15) days after its adoption by the City Council, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council held November 15, 2004 and **PASSED, APPROVED, and ADOPTED** by the City Council at a regular meeting on December 6, 2004 on the following roll call vote, to wit:

AYES: Council Members Ashton, Ekbohm, Lieberman, Mayor Pro Tem Versaw, and Mayor Shoals.
NOES: Council Members - None.
ABSENT: Council Members - None.
ABSTAIN: Council Members - None.



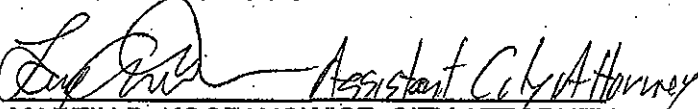
JOHN P. SHOALS, MAYOR

ATTEST:



DONNA L. MCMAHON, CITY CLERK

APPROVED AS TO FORM:



MARTIN D. KOCZANOWICZ, CITY ATTORNEY

Sov



FILIPINO COMMUNITY OF SAN LUIS OBISPO COUNTY, INC

885 South 13th Street
Grover Beach, CA 93433

Lolita V. Galvez
President

Jaime M. Flores
1st Vice Pres.

Enos Patacsil
2nd Vice Pres.

Roger Marcelo
Secretary

Ceny Lagunday
Asst. Secretary

Mila Zambo
Financial Secretary
Rose B. Flores
Asst. Financial

Linda Cacabelos
Treasurer
Flora Flores
Asst. Treasurer

Lucille Lor
DBSP-Treas.

Vicky Chafe
Asst. DBSP

Albert Calizo
Auditor
Board Members

Cipriano E. Galvez
Edwin Peralta
Ven Zambo
Bill Senna
Sgt.-At-Arms

Magdaleno Zambo
Ricky Bautista
Gene Mandac
Brian Blo

Life Time Brd Mbers
Zollo Lagunday

Historian & Parliamentarian
Rey Cacabelos

Program Dir.
Abe G. Garces

May 5, 2011

**Re: Waiver Request Filipino Community Center Building Modification
885 South 13th Street
Grover Beach Ca. 93433**

City of Grover Beach;

Please consider waiving the cost of fees and other discretionary city costs, based on hardship to the Filipino Community board and its members. Currently we have received \$18,465.00 in donations and fund raising to construct a new storage area. The storage area is approximately 500 square feet. The expected cost of doing this modification to be in excess of \$30,000.00.

The construction modification will be done by local construction tradesmen and community members, their labor and materials will be paid for out of our building fund.

Our fundraising efforts have been and are currently a monthly barbeque, donations from members and officers. We intend to continue our fundraising efforts.

Thank you for your consideration on this issue.

Lolita Galvez

Lolita Galvez President

**Filipino Community Center of
San Luis Obispo County & Vicinity
Grover Beach Ca. 93433**



FILIPINO COMMUNITY OF SAN LUIS OBISPO COUNTY, INC

885 South 13th Street
Grover Beach, CA 93433

received
3/28/2011

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President

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1st Vice Pres.

Enos Patacsil
2nd Vice Pres.

Roger Marcelo
Secretary

Ceny Lagunday
Asst.. Secretary

Mila Zambo
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Brian Bio

Life Time Brd Mbers
Sonny Javier
Zoilo Lagunday

Historian & Parliamentarian
Rey Cacabelos

Program Dir.
Abe G. Garces

March 28, 2011

Re: Wavier
Filipino Community Center
885 South 13th Street
Grover Beach, CA 93433

City Council Member;

The intent of this letter is to ask for a waiver from the requirement to relocate our current over head utility lines to be underground. Our reason for the waiver is this requirement would be a financial hardship on our Community Center. The cost of relocating our utility lines is roughly three times the cost of our requested addition. As most Community organization we are lacking funds for this kind of major improvement.

Thanks for your consideration.

Respectfully yours,

Lolita V. Galvez
Lolita V. Galvez
President

Jaime M. Flores
Jaime M. Flores
1st Vice President
(Building Chairman)

Enos Patacsil
Enos Patacsil
Vice President