

TOWN OF WINDSOR AGENDA REPORT

Joint Windsor Town Council, Windsor Redevelopment Successor Agency and Windsor Water District Meeting Date: January 15, 2025

To: Mayor and Town Council
From: Carl Euphrat, Deputy Public Works Director
Subject: Request to Modify Condition of Approval #35 for the Heritage Park Apartments Project

Recommendation to Council:

Provide direction on a request from the developer to modify the requirement to underground overhead utilities on Old Redwood Highway.

Strategic Plan Element:

The recommended action supports the goals of Infrastructure and Livability. Goal Statement: Through a lens of sustainability and innovation, invest in the Town's infrastructure and public facilities to meet the needs of future generations. Goal Statement: Preserve community character by maximizing the use of existing amenities and creating future opportunities that enhance quality of life for all.

Background:

On July 28, 2020, the Planning Commission approved planning entitlements for a 33-unit affordable apartment project on a 1.66-acre site located at 8685 Old Redwood Highway (the Heritage Park “Project”), as shown in Figure 1 attached:

Figure 1. Location Map (Attachment 4)

- At this public hearing, the Planning Commission considered a request from the applicant to remove or modify Condition #35, which reads as follows: All existing overhead utilities (of 26,000 volts or less) and proposed utilities, both on-site and along project frontages, shall be placed underground. More specifically, the applicant requested that the undergrounding requirements be limited to the power lines between the existing two power poles on the project frontage of Old Redwood Highway. The reason for the request was that undergrounding utilities for the entire project frontage on Old Redwood Highway, which would include eliminating the two existing power poles and connecting the lines to offsite power poles, would add substantial costs to the Project. The staff report indicated that the applicant’s request would need Town Council approval. The Planning Commission approved the planning entitlements for the Project in Resolution 683-20 (Attachment 3) with no changes to Condition #35. The locations of the existing power lines and power poles are shown on Attachment 2.

The Town Council has consistently supported the Project, including the following actions:

- August 16, 2017 – Authorization of \$565,000 in Inclusionary Housing Funds to support Project development (the “First Inclusionary Housing Fund Loan”).
- October 21, 2020 – Approval of an amendment to the First Inclusionary Housing Fund Loan to incorporate changes necessary to reflect the specifics of the approved project.
- August 16, 2023 – Authorization of an additional \$1,200,000 in Inclusionary Housing Funds to support Project development (the “Second Inclusionary Housing Fund Loan”)
- February 21, 2024 – Authorization of a five-year fee deferral agreement for certain development

impact fees.

- December 4, 2024 – Authorization of a five-year fee deferral agreement with minor amendments to previously approved housing fund loans.

Discussion:

The applicant is now requesting the Town Council remove or modify Condition #35, according to the written request provided in Attachment 3. The basis for the request is excessive costs associated with PG&E requirements for off-site improvements in connection with undergrounding utilities along the Project frontage. The costs are far beyond the already high costs that were anticipated at the time of the original project approval. Similar to the original request, the applicant proposes to underground the existing overhead wires between the existing two poles, but to leave the existing poles in place.

Policies and Rationale for Undergrounding Requirements

This section discusses the Town's policies and the reasons for the undergrounding requirements. The undergrounding of overhead utilities along project frontages is required by the 2040 General Plan, 2022 Public Health & Safety Element Update, Local Hazard Mitigation Plan, and the Town of Windsor Municipal Code.

General Plan (adopted in 2018)

The 2040 General Plan includes the following policies regarding the undergrounding of utilities in the Public Health and Safety and Public Facilities and Services elements, respectively.

- PHS-4.9 Priority Undergrounding. Prioritize undergrounding of utilities along emergency access and evacuation routes to make them more reliable and to minimize hazards from fallen power lines.
- PFS-8.1 Undergrounding. The Town shall require that utility distribution and transmission lines for all new development be placed underground except for high voltage power lines and except in those specific areas where undergrounding of existing overhead lines for the entire area is deemed by Council to be impractical.

Local Hazard Mitigation Plan (updated in 2019)

On June 19, 2019, the Town's Local Hazard Mitigation Plan (LHMP) was updated to include the following high priority implementation measures that are intended to reduce risks related to wildfires.

- Measure 4. Identify and map priority locations for the undergrounding of utilities and consider proximity to an evacuation route, moderate or high fire severity zones, and critical facilities when determining the priority.
- Measure 5. Require the undergrounding of utilities as part of development projects.

Public Health & Safety Element (updated in 2022)

The State of California required the Public Health & Safety Element of the General Plan to be updated with the recent Housing Element update. This update was required to comply with current State law for general plan safety elements, including new mapping requirements. As a result, the Project site is now shown to be within an area with evacuation constraints and along an evacuation route, as shown in Figures 2 and 3 attached.

Figure 2. PH&SE Evacuation Constraints Map (Partial) (Attachment 5)

Figure 3. PH&SE Evacuation Route Map (Partial) (Attachment 6)

In addition to PH&SE Policy PHS 4-9 (Priority Undergrounding), cited above, which was not changed

with the update, the following new policies were added:

- PHS-4.14 Evacuation Routes. Continue to identify and maintain evacuation routes to ensure adequate capacity, safety, and viability of those routes in the event of an emergency.
- PHS-7.4 Resiliency to Climate Impacts. The Town shall use natural resources and infrastructure to absorb the impacts of climate-related hazards and associated natural hazards, as feasible.

Municipal Code

Municipal Code Section 16-2-190 requires the undergrounding of overhead utilities, which are included as part of the frontage improvements required to be constructed as part of development projects within the Town of Windsor. Town Council may approve exceptions to the undergrounding requirement, subject to making all of the following findings per Municipal Code Section 16-2-290:

1. There are special circumstances and conditions affecting the subject property;
2. The exception is necessary for the preservation and enjoyment of a substantial property right of the developer; and
3. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

Emergency Evacuation and Access

Fallen power lines on Old Redwood Highway potentially could impede the ability to use Old Redwood Highway as an emergency evacuation route. In addition, the Fire Marshal has concerns about aerial fire access.

Fire Severity Zones

Following the recent catastrophic wildfires, the Town Council adopted the 2022 California Building Code, with modifications to reflect local conditions and which deems the entire Town to be within a moderate fire hazard severity zone. The Office of the State Fire Marshal has notified the Town that new State Fire Hazard Severity Zone maps will be released in January 2025, and that Windsor has been identified as potentially having Moderate, High, Very High or a combination of designations. This would be the first time that State fire designations are identified within Town limits, otherwise considered to be Local Responsibility Areas.

Critical Facilities

Because Old Redwood Highway is the primary arterial through town, it would be essential during an emergency for emergency personnel and others to access to and from critical facilities.

Climate Resiliency

The Town designated a resiliency hub at the Bluebird Center, which is located approximately 500 feet south of the Project site. A resiliency hub is a community facility that supports residents, coordinates communications, distributes resources, and reduces carbon pollution while enhancing quality of life. If Old Redwood Highway is blocked by fallen power lines, access to the resiliency hub could be restricted.

Discussion of Findings for an Exception to the Undergrounding Requirement

As discussed above, the Town Council would need to make findings to approve an exception to the requirement that overhead utilities be placed underground in accordance with Municipal Code Section 16-2-290 – Exceptions. Staff analysis of each finding is provided below

1. There are special circumstances and conditions affecting the subject property.

Staff Response: Staff is not aware of special circumstances or conditions affecting the subject property

that would support this finding.

2. The exception is necessary for the preservation and enjoyment of a substantial property right of the developer.

Staff Response: Because of the extensive offsite requirements for PG&E, it appears that the costs of undergrounding may threaten the financial viability of this project, which could be interpreted as a “substantial property right of the developer.” Town staff and PG&E staff are in communications regarding a potential funding source to offset the costs of undergrounding for the Project. This possibility came to light in late 2024 and has not been confirmed.

3. The granting of the exception will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

Staff Response: Based upon the Town’s policy documents and previous analysis described above, it may be difficult to make this finding.

Options

Staff identified the following options for the Town Council’s consideration:

1. Direct staff to prepare a resolution to approve the applicant’s request to modify Condition #35 to require only the undergrounding of the wires between the two existing poles and make findings for an exception in accordance with Municipal Code Section 16-2-290.
2. Direct staff to prepare a resolution granting an exemption from the undergrounding requirement for the project. This could include a mechanism such as an in lieu fee which could allow the undergrounding to take place in the future, potentially as a component of a larger in scope project.
3. Direct staff to prepare a resolution to deny the applicant’s request to modify Condition #35.
4. Continue the hearing to allow further consultation between Town and PG&E staff.

Fiscal Impact:

There is no fiscal impact associated with this proposed action.

Environmental Review:

The Planning Commission adopted a Mitigated Negative Declaration (MND) for the original Project entitlement approval. Depending on the Town Council’s direction, a resolution for approval would need to determine that the exception is consistent with the General Plan and other land use policies.

Additional environmental review may be required pursuant to California Environmental Quality Act (CEQA) Guidelines Section 151629(a). Additional environmental review would not be required if all of the following are found:

- 1) no substantial changes are proposed that would result in significant new impacts;
- 2) no substantial changes have occurred with respect to the circumstances under which the project is undertaken;
- 3) no new information of substantial importance that was not known at the time of the MND shows that the project will have one or more significant effects not discussed in the MND, significant effects examined in the MND will not be significantly more severe than shown in the MND, mitigation measures found infeasible in the MND would now be feasible and substantially reduce one or more significant effects, but the developer declines to adopt the mitigation measures, or mitigation measures which are considerably different from this in the MND would substantially reduce one or more significant effects on the environment.

Attachment(s):

1. Applicant Letter 2024-12-17
2. PG&E Exhibit
3. PC Reso 683-20 Heritage Park DRR
4. Figure 1 - Project Site
5. Figure 2 - PHSE Evacuation Constraints
6. Figure 3 - PHSE Evacuation Route Map
- 12.1 Correspondence Received (Distributed 2025-01-13)
- 12.1 PowerPoint (Distributed 2025-01-14)

Prepared by:

Carl Euphrat
Deputy Public Works Director

Reviewed by:

Shannon Cotulla
Public Works Director/Town Engineer

Patrick Streeter
Community Development Director

Recommended by:

Jon Davis
Town Manager