



MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT

DATE: February 17, 2026

TO: Affordable Housing Overlay/Mixed Use Overlay Developer

FROM: Planning Division

SUBJECT: **DENSITY BONUS WAIVER/CONCESSION FOR UTILITY UNDERGROUNDING**

This memorandum responds to your request for a waiver or concession from the City's requirement to underground utilities in connection with your proposed project. After reviewing the applicable provisions of the City's Municipal Code and considering the purpose of the undergrounding requirement, staff does not support treating utility undergrounding as a candidate for waiver or concession. City staff and the City Attorney are of the opinion that granting such a waiver or concession could result in public safety impacts that are inconsistent with the intent of the City's regulations.

Chapter 13.32 of the Municipal Code, titled "Underground Utility Devices", establishes the City's requirements for undergrounding utility devices and documents the public health and safety concerns associated with overhead utility lines and poles. The City Council found that eliminating overhead utility poles and lines reduces risks to life and property during emergencies such as earthquakes, fires, and severe weather events, and lowers the risks associated with downed or damaged utility lines. Undergrounding utilities also improves visibility and access within the public right-of-way, which supports safer conditions for pedestrians, motorists, and emergency services.

Because of these findings, the City applies the undergrounding requirement broadly to development projects that require City permits, and treats it as a fundamental safety standard rather than a discretionary enhancement. Although Chapter 13.32 includes certain exemptions, those provisions are narrow and specific. They do not establish a general ability to waive undergrounding requirements in connection with new development, nor do they suggest that undergrounding is an optional or primarily aesthetic requirement.

Under the State Density Bonus Law (Government Code section 65915(d)), qualifying affordable housing projects are generally entitled to concessions or incentives that result in identifiable and actual cost reductions. The City must approve such concessions unless it can make specific findings, supported by substantial evidence, that the requested relief would either: (1) not reduce costs, (2) cause a specific adverse impact on public health or safety, the physical environment, or a historic resource that cannot be mitigated without rendering the project unaffordable, or (3) violate state or federal law. In this case, Chapter 13.32 includes explicit legislative findings that undergrounding utilities is necessary to reduce hazards to life and property, particularly during emergencies, and to maintain safe visibility and access within the public right-of-way.

For these reasons, City staff and the City Attorney do not support approving any waiver or concession from the City's undergrounding requirement and will maintain this position in project review. While we remain available to discuss code-compliant alternatives and narrow exemptions under Chapter 13.32, our position is that all required utilities must be installed underground to protect public safety.