



Staff Report

TO: City Council
FROM: Gustavo J. Romo, Deputy City Manager
Jillian Fountain, Associate Planner
DATE May 6, 2025
SUBJECT: Public Hearing - Appeal of Planning Commission Approval of Plot Plan PP2023-0591

Description An appeal of Planning Commission action, which approved Plot Plan PP2023-0591 for the development of a 15-unit, two-story apartment building (“Aegis Apartments”) located at 1360 E. Sixth Street (APN: 419-232-039) due to the inclusion of Condition No. 86, which requires the undergrounding of existing utilities.

Background and Analysis:

Plot Plan (PP2023-0591) is required by the Beaumont Municipal Code, per Section 17.02.070, to establish a new land use. The proposed land use includes the construction of a two-story apartment building with 15 multi-family residential units. The proposed project also includes an open space recreation area, a tot lot, and associated improvements, and is located north of Sixth Street between American Avenue and Illinois Avenue (see Attachment B). Pursuant to Table 17.19.1, multi-family residential units are considered a “permitted” use in the Sixth Street Mixed Use Residential zone subject to approval of a Plot Plan.

Project Setting:

The 0.680-acre site is currently vacant and is located on one parcel (APN 419-232-039). This portion of Sixth Street currently has an existing curb and overhead power lines. The parcels to the west and north include a fully developed storage facility with curb, gutter and sidewalk. To the east is a commercial business unit, Bua Lotus Thai Massage. Carson Trailer Inc. is located to the south across Sixth Street.

Planning Commission Hearing March 26, 2025:

On March 26, 2025, Plot Plan Application PP2023-0591 was presented to the Planning Commission. During the meeting, the Commission voted 5-0 in favor of approving the

application. As part of the discussion, the applicant requested that the Planning Commission remove Condition of Approval No. 86.

86: PRIOR TO ACCEPTANCE OF ANY PUBLIC STREET IMPROVEMENT OR PRIOR TO ISSUANCE OF ANY OCCUPANCY PERMIT (COO): The Applicant shall underground all existing utilities located on, extending across, or coincident with the project boundary and as necessary to transition to existing facilities per Beaumont Municipal Code Section 12.18.030. Should any overhead utility be exempt from underground, the Applicant shall relocate the utility and appurtenances as needed for the safe and equitable operation of other improvements.

The Planning Commission's action was "To approve as presented with the support of a potential waiver if the subject property meets the criteria of a waiver to maintain the western pole and underground the remainder of the frontage and direct staff to prepare a Notice of Exemption for the applicant to file with the Riverside County Clerk Recorder." The motion was approved unanimously. Following the meeting, City staff reviewed prior documentation and performed additional review based on the Planning Commission's direction. Public Works staff found that the development did not qualify for the waiver of the utility undergrounding condition.

Applicant Request for Appeal:

On April 9, 2025, the project applicant filed for an appeal to have Condition of Approval #86 waived and allow for the Owner-Developer to maintain the west power pole without having to underground it (Attachment A).

The applicant cited the following concerns:

1. "Planning Commission's approval of Plot Plan with the waiver is exclusively within its powers under BMC 17.02.030 and table 17.02.
2. Without waiving error No. 1, the Planning Commission's approval of the Plot Plan with the waiver was within the sound discretion of Planning Commission to recommend that the City Council approve the waiver to allow developer to maintain the west pole.
3. The west pole may be maintained because it is an exempt utility device as described in BMC 12.18.16.
4. Because project frontage is 170.5 feet, the west pole may be maintained with an in-lieu fee based solely upon all in costs per lineal foot – in this case 16 feet at \$400 per foot or \$6,400 total which developer accepts."

These items and more details can be found in Attachment A.

Public Works Summary:

The purpose of this summary is to outline staff's determination regarding the applicant's request for a waiver from the utility undergrounding requirements per Chapter 12.18.080 of the Municipal Code, and to provide the applicant with available compliance options to satisfy the Conditions of Approval.

The Project has been under review since April 2022. From the outset, Public Works staff have consistently communicated the requirement to underground existing overhead utilities along the project frontage. This requirement is consistent with applicable Municipal Code provisions. Below is a timeline documenting the City's comments regarding this requirement:

- April 14, 2022 (DRC) – Pre-application: "PP will need to be removed and OH utilities relocated to underground"
- August 10, 2023 (DRC): "All PPs will require undergrounding"
- January 18, 2024 (DRC): "All utility poles need to be underground"
- April 4, 2024 (DRC): "All utility poles need to be underground"
- June 6, 2024 (DRC): "All utility poles need to be underground"
- September 12, 2024 (DRC): The Project plans specified that existing power would be undergrounded.
- December 23, 2024 (Conceptual Grading Plan Check No. 1): "Please note that undergrounding existing overhead utility lines is the responsibility of the owner/developer (not SCE). For clarity, either remove or revise note to avoid ambiguity."

Staff has determined that the project does not meet the requirements for a waiver from the undergrounding requirements per Municipal Code Section 12.18.080. The ordinance allows for a waiver only if the applicant demonstrates that the requirement is impractical and will cause practical difficulties or unnecessary hardship due to:

- Certain topographical conditions;
- Street configurations;
- Underground obstacles; or
- Soil, water, or other natural conditions.

Staff reviewed the applicant's submittal and concluded the following:

1. Topographical Conditions – No topographical conditions exist that would impact the feasibility of undergrounding the utilities.

2. Street Configurations – The street configuration is standard and does not pose an impediment.
3. Underground Obstacles – No underground obstacles have been identified by the applicant or observed by staff.
4. Soil, Water, or Other Natural Conditions – No relevant natural condition has been provided or verified.

As such, the applicant has not met the burden of proof to justify a waiver.

To satisfy the Conditions of Approval related to utility undergrounding, the applicant has three options:

1. Pay an In-Lieu Fee: Pay an in-lieu fee equivalent to the cost of undergrounding all poles and overhead lines along the project frontage. NOTE: the applicant has offered to pay an in-lieu fee, however, has not provided a cost estimate to determine the equivalent fee.
2. Partial Undergrounding with In-Lieu Fee: Underground the service pole and associated overhead utilities. Pay an in-lieu fee for the remaining distribution pole and overhead lines.
3. Full Undergrounding: Underground all power poles and overhead utilities along the project frontage.

If the applicant chooses Option 1 or 2, detailed cost estimates must be submitted to the City for review and approval. This was previously communicated to the applicant on numerous occasions. Pole relocation is required as part of the undergrounding process, and the project is subject to applicable relocation fees.

Staff recommends that the applicant proceed by selecting one of the three compliance options listed above.

Claims by Applicant (in quotes) and Staff Responses:

1. “The Planning Commission already approved the rights to waive the undergrounding requirements.”

Staff Response—The Planning Commission approved the conditions without modification; however, this is a moot point. Per Section 12.18.070 (G) of the BMC, the project meets the qualifications for exemption, and the City may allow the owner to pay an in-lieu fee for undergrounding. Per Section 12.18.080 of the BMC, if a waiver is granted, the project must comply with the requirements of Section 12.18.070 (G)—pay an in-lieu fee.

2. "The City should accept our \$6,400 in-lieu fee."

Staff Response- The \$6,400 was the City's anticipated cost per linear foot to underground the cabling and does not include the cost to remove the pole. The City anticipated the cost to be approximately \$200,000 to remove the pole, if this were a City-led public project.

Per Section 12.18.070 (G) of the BMC, the burden is imposed on the owner to obtain a written statement of the unit price to undergrounding. City staff has requested the applicant to obtain an estimate on several occasions. Staff provided the City's estimated cost for reference but also expressed that the private development will be significantly lower because it will be site-specific.

3. "The code section for undergrounding utilities was not in effect at the time of our application submittal.

Staff Response- The previous code did not permit in lieu fee or any exemptions beyond the less than 34kV exemption. Additionally, the submittal of an application does not freeze applicable codes.

Planning Commission Authority:

A Plot Plan is required per Section 17.02.070 to establish a new land use, or to assume an existing land use, consistent with the zoning of the proposed location and requires a public hearing conducted by the Planning Commission. The Beaumont Municipal Code Section 17.02.070.F authorizes the Planning Commission to approve, conditionally approve, or deny the application.

City Council Authority:

Per Section 17.02.060, An Appeal of Planning Commission Decision, all actions and decisions of the Planning Commission, authorized by this Zoning Ordinance, may be appealed to the City Council.

Fiscal Impact:

The cost to prepare this staff report was approximately \$2,500.00. The applicant paid the appeal fee on April 14, 2025, in the amount of \$3,083.21 as required.

Recommended Action:

Hold a public hearing; and

Uphold the Planning Commission's decision and maintain the condition of approval.

Attachments:

- A. Request for Appeal from Applicant
- B. Planning Commission Staff Report March 26, 2025, for PP2023-0591
- C. Draft Conditions of Approval
- D. Public Works Email with Applicant
- E. Original Pre-App Review by Public Works
- F. Development Plan
- G. General Plan Land Use Designation Map
- H. Zoning Map
- I. Aerial Photograph
- J. Proof of Publication
- K. Radius Map and Labels