



## Town Council Agenda Report

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Date: June 11, 2019 Item No. 11

To: Honorable Mayor and Town Council

Subject: REQUEST TO ALLOW OVERHEAD POWER LINES, NICO PLAZA

From: Douglas Robertson, Town Manager

Submitted by: Brad Miller, Town Engineer  
Engineering Department

Budgeted Item:  Yes  No  N/A

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### RECOMMENDED ACTION

Provide staff with direction regarding the request to allow overhead utility poles and lines to remain in vicinity of the Nico Plaza development.

### BACKGROUND

Pursuant to the Town's Municipal Code, Chapter 14.28, "underground installation is required for all electrical lines energized at 34,500 volts or less, telephone, cable, antenna television and similar service wires or cables which:

- (a) Provide direct service to the property being developed; or
- (b) Are existing and located within the boundaries being developed; or
- (c) Are existing between the property line and the centerline of the peripheral streets of the property being developed..."

The Code also indicates in Chapter 14.38.060:

"Notwithstanding the provisions of this Chapter, ....The Council may grant special permission, on such terms as the Council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures."

## **ANALYSIS**

On May 31, 2019, the Town received a request from Nico Plaza, LCC, (see attached letter), to allow three poles that support overhead power lines along the subject property frontage on Kasota Road and the alley that is immediately adjacent to, and south of the property, to remain in service. The attached exhibit identifies the subject poles as B, C, and D.

Per the attached letter, Nico Plaza LLC. is requesting that the Council find that the undergrounding of the existing overhead service and transmission lines pose an unusual circumstance because, *“The cost of undergrounding the poles is disproportionately high relative to the size of the property and will make any development of the site infeasible.”*

Staff supports the exclusion of pole D from the removal and underground requirement as it serves to convey overhead lines across State Highway 18 and would best be addressed during a future intersection reconstruction project. Staff supports the re-location of the existing overhead service line that extends from pole C to a Town street light at the intersection of Outer Highway 18 South, and Kasota Road, and re-routing it to Pole D. This would enable poles B and C to be eligible for removal, and the underground project would thus extend from pole A, (drop pole), to pole D, (drop pole), and to pole E, (drop pole). Drop pole E is approximately 150 feet east of the project site and is located in the alley east of Kasota Road.

The applicant, Nico Plaza LLC. is requesting that poles B and C also be excluded from the undergrounding requirement due to cost and distance to the next available pole, (E). Chapters 14.28 and 14.38 of the Apple Valley Municipal Code do not include cost or distance as a criterion for exclusion, so staff cannot make a finding in favor of excluding poles B and C. Section 14.38.060- (Emergency or Unusual Circumstances), does enable Town Council to grant special permission “on such terms as the Council may deem appropriate”. The applicant is requesting Town Council consider cost and distance to constitute an “unusual circumstance”.

## **FISCAL IMPACT**

There is no financial impact to Town.

## **ATTACHMENTS**

- A. Letter dated May 31, 2019 from Nico Plaza LLC.
- B. Project location, Interim Site Plan (Power Pole Exhibit).

Nico Plaza LLC  
4470 W. Sunset Blvd. #302  
Los Angeles, CA 90027

May 31, 2019

Mr. Brad Miller PE, Town Engineer  
Town of Apple Valley  
14955 Dale Evans Parkway  
Apple Valley, CA 92307

**Re: Request to Allow Overhead Power Lines, APNs 0473-112-10 & -11, Development Permit No. 2018-004 and Special Use Permit No. 2018-001**

Dear Mr. Miller:

Nico Plaza, LLC is currently planning for the redevelopment of a property located at 18155-18195 Highway 18, at the intersection of Kasota Road and Highway 18 in Apple Valley. The Town has required that the developer underground three (3) existing utility poles surrounding the south, southeast and northeast perimeters of the site (B, C, D respectively on the enclosed site plan).

Town Code Section 14.38.060 states, *"The Council may grant special permission, on such terms as the Council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures."*

Nico Plaza requests special permission to allow the three poles referenced, not to be undergrounded as it relates to our proposed project. We believe our request is under the basis of "unusual circumstances" due to the following:

- The cost of undergrounding the poles is disproportionately high relative to the size of the property and will make any development of the site infeasible. The initial cost estimate to underground Poles B and C are \$164,000 and \$139,000, respectively. These costs include undergrounding the wiring all the way to Pole E which is located across Kasota Road and approximately 150' from our project site. Pole D is \$305,000 (includes trenching across Highway 18), totaling an estimate of \$608,000. These estimates do not include the costs associated with other utilities on these poles, including cable and phone lines. With the planned building at 4,572 sq ft, the price per square foot for the undergrounding work alone is \$133 per square foot.

Nico Plaza LLC  
4470 W. Sunset Blvd. #302  
Los Angeles, CA 90027

- It is our understanding that there are plans for a street improvement project for Highway 18 between Tao Road and Apple Valley Road. Undergrounding these poles may be better completed at the time of the project.

Additionally, Town Code Section 14.28.040(a) states, "*Existing overhead Distribution lines will be permitted to remain in areas where these Distribution lines have existing overhead Service lines to adjacent lots.*"

Pole C has an existing Service line to an adjacent lot and therefore should be permitted to remain. Pole C services the street light to the east across Kasota Road.

Per the Town's requirement, we are proceeding with eliminating the Outer Highway 18 which is requiring us to improve and widen the rear alley where two of these poles are located. We are committed to seeing this project materialize under the guidance of the Town's codes and conditions. However, this project and site create unusual circumstances that cannot be feasibly developed with these certain conditions. We request your assistance in presenting this matter to the Town Council. If you require additional information, I can be reached via email: [ash@indra.la](mailto:ash@indra.la) or phone: 310-570-2380.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ash Pathi', written over a faint, larger signature.

Ash Pathi  
Nico Plaza LLC

encl: (1)

