



TO: Fruita City Council and Mayor

FROM: Planning & Development Department

DATE: January 7, 2025

AGENDA TEXT: APPEAL – This is an appeal by PSCo of the Planning Commission’s confirmation of the administrative decision that the portion of the Project within the CSR zone district must be undergrounded in order to be compatible with the Riverfront Park.

BACKGROUND

This is an appeal of the Fruita Planning Commission’s decision at its regular meeting on October 8, 2024, confirming Staff’s administrative decision requiring the new transmission line to be placed underground in the Community Services & Recreation (CSR) zone in order to be compatible with the Riverfront Park. City of Fruita Land Use Code (“LUC”) Section 17.25.030 (A) states that, *“Any person aggrieved by a decision by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment may appeal such decision as outlined herein”* and that any application for appeal must be filed in writing with the Community Development Department within thirty (30) days of the decision.

The applicant submitted its application for appeal to the Community Development Department on November 7, 2024, and Staff deemed the application to be timely and complete in accordance with Section 17.25.040 (A) on November 12, 2024.

Because this is an appeal of a decision made by the Planning Commission, LUC Section 17.25.020 (B) states, *“The City Council shall have the authority to hear and decide all other appeals of decisions made by the Community Development Director, Planning Commission, Historic Preservation Board, or Board of Adjustment.”*

LUC Section 17.25.040 (B) states, *“The party making the appeal (the appellant) shall have the burden of proving the necessary facts to warrant reversal or amendment of the decision being appealed. Such proof shall include applicable specific section references within this Code and shall be provided with the application. The application shall be based on the record established in the decision-making process.”*

Attachments with this Coversheet:

1. Staff Report dated January 7, 2025, for Appeal application.
2. Staff Report dated October 8, 2024, for Item 2024-08.
3. Application to Planning Commission.

4. Documents added to the record from the October 8, 2024, Planning Commission meeting.
 - a. Cost Estimates – dated October 3, 2024
5. Minutes of Planning Commission Meeting from October 8, 2024, pertaining to Item 2024-08.
 - a. Audio Recording of October 8, 2024, Planning Commission at this [link](#). (recording also found on the City's website located under the Planning Commissions October 8, 2024, meeting information page)
6. Appeal Submission Documents.
7. Letter of Completeness dated November 12, 2024.
8. Supplemental Legal Notice for Appeal Application.
9. Previous Appeal LUC Language

OPTIONS AVAILABLE TO THE CITY COUNCIL:

1. Affirm the Planning Commission's decision to approve the administrative decision that the transmission lines must be undergrounded within the Riverfront Park.
 - a. This would keep the Planning Commissions original decision to underground the transmission line in the CSR zone.
2. Reverse the Planning Commission's decision.
 - a. This would approve the aboveground transmission line in the CSR zone.
 - b. Must state findings of fact to support reversing the Planning Commission's decision based upon applicant's compliance with the Compatibility Criteria in Section 17.05.080 (C) of the Fruita Land Use Code.
 - c. May attach conditions of approval on any appeal to ensure the health, safety, and welfare of the City.
3. Amend the Planning Commission's decision.
 - a. This could include the condition proposed by PSCo to underground the lines through Kingsview Road instead of the Riverfront Park