

**MEMORANDUM**

TO: Mayor and Town Council

FROM: W. Calvin Horton, Town Manager

SUBJECT: Response to Petition - Requirements for Underground Electrical Services

DATE: April 12, 1999

This memorandum is in response to petitions from Ms. Jillayne Hollifield and Mr. Donnie Cowart on March 1, 1999, requesting changes to regulations requiring utility lines to be placed underground. The Council referred this request to the Town Manager for a follow-up report.

**BACKGROUND**

The Chapel Hill Development Ordinance contains the following language, in Section 14.10:

All utility lines other than lines used only to transmit electricity between generating stations or substations and three-phase electric power distribution lines shall be placed underground.

Mr. Cowart, the electrical contractor, and Ms. Hollifield, the owner of the house, are requesting a change in the Development Ordinance that would allow flexibility in enforcing this Development Ordinance regulation. Mr. Cowart obtained an electrical permit to change and upgrade the overhead electrical service at Ms. Hollifield's residence.

At the time of the electrical inspection, Mr. Cowart was instructed to relocate the upgraded overhead service line underground as required under current policies and procedures. Mr. Cowart has obtained an estimate from Duke Power Company of \$782 for the installation of the underground line. Contractor associated cost estimates, presented to Ms. Hollifield by Mr. Cowart, would be an additional \$600.

The Inspections Department has required all new, upgraded, or repaired services be placed underground for more than 20 years.

As of January 1, 1995, Duke Power began charging for conversion of aerial electrical service to underground. The charge is for the difference between the installation of underground versus aerial service.

## GENERAL DISCUSSION

We believe that the underground utilities requirement is a good one, and represents sound public policy. It has been the Town's practice since this ordinance was adopted in 1981 to require that existing, on-site overhead electrical lines be placed underground whenever substantial new electrical work is being done on a property.

We believe the present policy is reasonable for all new development, where owners often have the option of financing various costs, such as for utilities, over a period of up to 30 years.

In addition, the gradual transition to underground electric service on major traffic routes and entranceways and in the downtown will enhance the appearance of the community over time as redevelopment and upgrading of existing buildings occurs.

However, the cost of meeting the underground service requirement can be more difficult for existing homes than in new developments where underground work can be planned in advance and sequenced logically with other site work.

For example, at an existing home, boring under an existing concrete driveway may be necessary as in the case of Ms Hollifield's property.

For an existing home being remodeled or added to, the owner may not have the option to finance the costs over several years, especially if the owner has low to moderate income.

## PROPOSED CHANGE IN ADMINISTRATION OF ORDINANCE

This current petition is one of a series of inquires/concerns that have come to the Town regarding this requirement. After study and reflection, we believe it is appropriate to adjust the approach to administration of this regulation.

Specifically, we believe it would be appropriate in circumstances such as Ms. Hollifield's, where the subject is an existing use and where no substantial change to utilities is contemplated (i.e. no additional lines and no new properties to be served), to consider the existing overhead line situation to be a nonconforming feature that may continue to exist. Section 22.4.2 of the Development Ordinance reads as follows:

Nonconforming features may be continued subject to the following limitations:

- a) No action shall be taken which increases the degree or extent of the nonconforming feature. Any enlargement, extension or structural alteration shall conform to all current requirements of this article.

- b) When a building, structure or other development of land having a nonconforming feature is damaged or demolished to the extent of fifty percent (50%) or more of its current assessed taxable value, such building, structure, or development of land may be reconstructed only if the nonconforming feature is eliminated and the building or structure shall thereafter conform to the provisions of this chapter.

It is our intention to begin applying this approach to circumstances involving upgrades of electrical service to existing properties. That is, in a case like Ms. Hollifield's, an overhead line can remain as a nonconforming feature, even though the electrical service to the existing property is being upgraded.

#### **SUMMARY**

It is our intent to notify this homeowner that, under the provisions described in this memorandum, the overhead service on her property can continue. We will also treat similar situations in the future with the same approach.

Accordingly, we believe that a Development Ordinance amendment is not needed to address this request, and we recommend no Council action at this time.

If the Council has different guidance or instruction on this issue, we would be pleased to receive it.

#### **ATTACHMENT**

1. Letters from Mr. Cowart and Ms. Hollifield (p. 4)



## ATTACHMENT 1

(10)  
Cowart Electric  
P.O. Box 494  
Butner, NC 27509

February 1, 1999

To: Chapel Hill City Manager and Council Members

From: Donnie Cowart owner of Cowart Electric

Subject: Request for exemption of ordinance

First I would like to introduce myself, I am a licensed Electrical Contractor in Durham, NC with many years of experience. I was requested to come to Chapel Hill to do a kitchen remodel for Mrs. Jillane Hollifield who is a Chapel Hill resident. As usual, an electrical permit was obtained and the work was performed. However, during the remodel the old 100 amp fuse panel that was located in the kitchen had to be upgraded to 200 amp. The panel also had to be relocated because it would have been blocked by the relocation of the refrigerator which is a code violation. This required me to do a service change. The new 200 amp breaker panel was located outside. A new 200 amp meter base was installed and the service drop from Duke Power is run to the house overhead. After the work was completed, I called the electrical inspector for an inspection and at this point I learned of the ordinance that if you change a service in Chapel Hill that it must be underground from the power company to the house. Mrs. Hollifield lives at 303 Granville Road, an older neighborhood in Chapel Hill. This house was built in 1955 and had the original fuse panel and electrical service.

When I do a service change I always look at the option of overhead versus underground service from the power company. If it is feasible to go underground, my first step is to call the Duke Power engineer to look at the job. If the engineer determines to go underground is more expensive than for me to put the service back to the original overhead drop then I leave it overhead. In this case, the homeowners driveway is concrete and the lot is on a hill. Therefore, I knew this would be very costly to my customer Mrs. Hollifield. This is what determined how I installed the service without the consultation with Duke Power.

Now being informed by inspections as to the ordinance to which I have been instructed to comply, I requested Duke Power to price the installation of service underground. The power company's price is \$782.57 for their part of the work. The building contractor will have to cut a 24 inch by 8 foot trench across the concrete



(11)

driveway and repair the driveway with new concrete after the work is complete. The estimate for this is \$400.00. The electrical change would require me to remove the overhead service and move the meter base to the right of the electrical panel so it can be accessed underneath at a cost of approximately \$200.00. Therefore, the additional cost of an approximate \$1382.57 would have to be incurred by my customer and your resident.

I understand the concern for wanting to remove overhead service because of cosmetic reasons in new construction, but this is a 44 year old house. All of Mrs. Hollifield's neighbors currently have overhead service. This would be the only house on Granville Road with an underground service. With this in mind, I think to make her comply to this ordinance seems very unjustified and extremely costly. I wish to ask you and the board members to exempt Mrs. Hollifield from compliance with this ordinance. It seems as if she is being punished for upgrading her older home with an unnecessary expense.

Now that I am aware of the ordinance it will be included in the pricing of jobs in Chapel Hill. The homeowner will be informed of this additional expense before making a final decision to upgrade their service. As you can see it can cost them a great deal more than they might expect. Homeowner's and electrical contractors will be making do with what service they have rather than suffer the expense of upgrading electrical service too underground.

I also wish to ask that you and the board members look more closely at this situation with consideration to the older neighborhoods. If any of you live in an older neighborhood this should be of a personal concern as one day you might want to enhance your home with an addition or remodel but as you can see the additional cost is a grave deterrent.

I want to thank you in advance for your concern and consideration in this matter. I can be reached by mail at the above listed address or by telephone at 919-471-9633. A prompt decision is needed in this matter. Until I receive your reply the remodel can not receive a final inspection. Therefore, I am requesting this be added to the meeting agenda for discussion on February 8, 1999.



Donnie Cowart  
Cowart Electric





(12)

Jillayne Hollifield  
303 Granville Road  
Chapel Hill, NC 27514

February 18, 1999

Mayor and Town Council of Chapel Hill  
306 North Columbia Street  
Chapel Hill, NC 27516

Attention: Cal Horton, Town Manager

Ladies and Gentlemen:

I am writing in reference to the town ordinance requiring that when electrical service to a home is upgraded, the cable bringing electrical power to the home's control panel must be buried. This matter was brought to your attention most recently in a letter written by Mr. Donnie Cowart on February 1, 1999.

In a telephone conversation with Mr. Horton on February 16, 1999, I learned that the purpose of this ordinance is basically three-fold; it is intended to:

- 1) increase safety
- 2) improve the aesthetic appearance of the neighborhood, and
- 3) reduce interruptions in the provision of electrical service

I submit to you that this ordinance fulfills none of these purposes and that, in fact, it creates far greater problems than it alleviates.

- 1) Burying the cable of only one home in a neighborhood does nothing to eliminate safety concerns. All of the other homes will continue to require poles and above-ground wire.
- 2) Burying the cable of only one home in a neighborhood does nothing to improve the appearance of the neighborhood overall. All of the other homes will continue to require poles and above-ground wire. Moreover, all of the homes will continue to utilize other services such as telephone and television cable service that require poles and above-ground wire. Thus, poles and wires will remain even if the electrical cable is buried and I fail to understand how the aesthetic appearance of the neighborhood will then be improved.



3) Mr. Cowart and other qualified professionals assure me that burying the electrical cable will do nothing to prevent or even to reduce interruptions in the provision of electrical service. If the power goes out in the rest of the neighborhood, the power will go out at my house, buried cable or no.

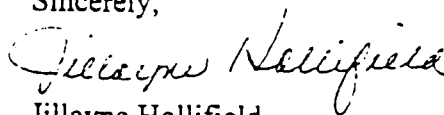
Not surprisingly, I find the requirements of this ordinance discriminatory. I would not be facing this dilemma if I had not decided to make my kitchen more safe. So, in essence, I am being penalized for increasing the safety of my personal property. Also, it is my understanding that this ordinance is expected to produce results over time, but there is no time limit. No one else in my neighborhood will be required to make these changes unless or until they, too, wish to enjoy modern electrical convenience in their homes.

The changes this ordinance demands are costly. They have been described by Mr. Cowart in a previous correspondence to you and are substantial. In addition, I will most likely lose one and possibly two mature trees since no matter where a trench for the cable is cut, it will inevitably sever vital roots. This will at least double the cost described in Mr. Cowart's letter, as anyone who experienced mature tree removal subsequent to Hurricane Fran can readily appreciate. Moreover, how will the loss of my tree or trees increase the aesthetic appearance of my neighborhood?

It does not appear to me that the requirements of the ordinance meet its stated objectives. The situation does, however, raise additional questions. Is it possible that residents will be faced with a similar situation at some future time and be required to bury telephone and television cables? Might it be more appropriate to "share" a single underground trench for all wires and remove the necessity for poles and above-ground wire altogether and to do this for all homes at the same time? And, might the Town of Chapel Hill be willing to assume some of the cost for these changes since this is an ordinance that affects some but not all of its neighborhoods? (Obviously it is the owners of older, and often less expensive, homes who will be forced to assume the additional financial burden if they choose to upgrade their electrical service to current industry standards.)

Thus, I believe that implementation of the provisions of this ordinance on a case-by-case basis are unnecessarily burdensome and reflect insufficient planning and forethought. I would therefore like to ask that the Mayor and members of the Town Council reconsider strict enforcement of the ordinance as it now stands and consider an alternative and more equitable way to achieve its stated objectives.

Sincerely,



Jillyne Hollifield

