

CITY OF SOUTH JORDAN
CITY COUNCIL MEETING AGENDA
CITY COUNCIL CHAMBERS
TUESDAY, JANUARY 02, 2024 at 6:30 p.m.



Notice is hereby given that the South Jordan City Council will hold a City Council Meeting at 6:30 p.m. on Tuesday, January 2, 2024, in person in the City Council Chambers, located at 1600 W. Towne Center Drive, South Jordan, Utah, and virtually via Zoom phone and video conferencing. Persons with disabilities requesting assistance should contact the City Recorder at least 24 hours prior to the Meeting. The Agenda may be amended and an Executive Session may be held at the end of the Meeting. Times listed are approximate and may be accelerated or delayed.

In addition to in-person attendance, individuals may join via phone or video, using Zoom. Note, attendees joining virtually may comment during public comment, or a public hearing virtually. To comment during public comment, or public hearing virtually, the individual must have their video on and working during their comments. Attendees who wish to present photos or documents to the City Council must attend in person. Those who join via phone may listen, but not participate in public comment or public hearings.

In the event the Meeting is disrupted in any way that the City in its sole discretion deems inappropriate, the City reserves the right to immediately remove the individual(s) from the Meeting and, if needed, end virtual access to the Meeting. Reasons for removing an individual or ending virtual access to the Meeting include but are not limited to the posting of offensive pictures, remarks, or making offensive statements, disrespectful statements or actions, and other any action deemed inappropriate.

Ability to participate virtually is dependent on an individual's internet connection. To ensure comments are received regardless of technical issues, please have them submitted in writing to the City Recorder, Anna Crookston, at acrookston@sjc.utah.gov by 3:00 p.m. on the day of the meeting. Instructions on how to join virtually are below.

Join South Jordan City Council Meeting Virtually:

- Join on any device that has internet capability.
- Zoom link, Meeting ID and Password will be provided 24 hours prior to meeting start time.
- Zoom instructions are posted <https://ut-southjordan.civicplus.com/241/City-Council>.

Regular Meeting Agenda: 6:30 p.m.

A. Welcome, Roll Call, and Introduction: By Mayor, Dawn R. Ramsey

B. Invocation: By Council Member, Patrick Harris

C. Pledge of Allegiance: Assistant City Manager, Jason Rasmussen

D. Presentation Items: 6:35 p.m.

D.1. Oath of Office of City Council Member, Patrick Harris. *(By City Recorder, Anna Crookston)*

D.2. Oath of Office of City Council Member, Kathie L. Johnson. *(By City Recorder, Anna Crookston)*

D.3. Oath of Office of City Council Member, Tamara Zander. (*By City Recorder, Anna Crookston*)

E. Minute Approval:

[E.1.](#) December 5, 2023 City Council Study Meeting

[E.2.](#) December 5, 2023 City Council Board of Canvassers Meeting

[E.3.](#) December 5, 2023 City Council Meeting

F. Mayor and Council Reports: 6:50 p.m.

G. Public Comment: 7:00 p.m.

This is the time and place on the agenda for any person who wishes to comment. Any person or group wishing to comment on any item not otherwise scheduled for public hearing on the agenda may address the City Council at this point by stepping to the microphone, or if joining electronically, by raising their hand and giving his or her name for the record. Note, if joining electronically, photos or documents will not be accepted through Zoom and you must attend City Council Meeting in-person. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Chair. Groups wishing to comment will be asked to appoint a spokesperson. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council Meeting. Time taken on non-agenda items, interrupts the process of the noticed agenda. In rare cases where it is determined appropriate to address items raised from public comments, these items will be noted and may be brought back at the conclusion of the printed agenda.

H. Action Item: 7:15 p.m.

[H.1.](#) **Resolution R2024-01**, Proclaiming January 16, 2024 as Religious Freedom Day in the City of South Jordan. RCV (*By City Manager, Dustin Lewis*)

I. Public Hearing Item: 7:20 p.m.

[I.1.](#) **Ordinance 2024-01**, Amending Sections 17.04.240 (Public Utilities), 17.18.030 (Use Regulations), and 17.18.060 (Use Definitions) of the South Jordan City Municipal Code to change Public Utility and Restaurant Uses from Conditional Uses to Permitted Uses. RCV (*By Director of Planning, Steven Schaefermeyer*)

J. Staff Reports and Calendaring Items: 7:30 p.m.

ADJOURNMENT

WELCOME RECEPTION FOR COUNCIL IN CITY HALL LOBBY

CERTIFICATE OF POSTING

STATE OF UTAH)

COUNTY OF SALT LAKE)

I, Anna Crookston, the duly appointed City Recorder of South Jordan City, Utah, certify that the foregoing City Council Agenda was emailed to at least one newspaper of general circulation within the geographic jurisdiction of the public body. The agenda was also posted at the principal office of the public body and also posted on the Utah State Public Notice Website <http://www.utah.gov/pmn/index.html> and on South Jordan City's website at www.sjc.utah.gov. Published and posted December 29, 2023.

SOUTH JORDAN CITY
CITY COUNCIL STUDY MEETING

December 5, 2023

Present: Mayor Dawn R. Ramsey, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Don Shelton, Council Member Tamara Zander, Council Member Jason McGuire, City Manager Dustin Lewis, Assistant City Manager Jason Rasmussen, City Attorney Ryan Loose, Director of Commerce Brian Preece, Director of Strategy & Budget Don Tingey, Lieutenant Fire Chief Ryan Lessner, Director of Administrative Services Melinda Seager, Director of Public Works Raymond Garrison, Director of Recreation Janell Payne, CFO Sunil Naidu, Director of Planning Steven Schaefermeyer, City Engineer Brad Klavano, Deputy Police Chief Rob Hansen, Communications Manager Rachael Van Cleave, GIS Coordinator Matt Jarman, Senior Systems Administrator Phill Brown, IT Director Jon Day, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun

Absent:

Others: Kathie Johnson, Bridger Pedroza, Kezia

4:47 P.M.
STUDY MEETING

A. Welcome, Roll Call, and Introduction: *By Mayor Dawn R. Ramsey*

Mayor Ramsey welcomed everyone present and introduced the meeting.

B. Invocation: *By Council Member Tamara Zander*

Council Member Marlor offered the invocation.

C. Mayor and Council Coordination

Council Member Marlor discussed a call received from a resident, Denise Allen, whose family donated Aunt Mame's house. There was some concern regarding the lack of involvement and work on the home from the city. She has met with the Mayor and will be meeting with Director Tingey to discuss finishing the house. He noted that the city did at one point make a commitment to preserve the home, but up until now it hasn't been possible. He strongly encouraged the city to keep their commitment and continue working with Ms. Allen and her family on the project. He gave a few suggestions for finishing that project, including possible grant money.

Mayor Ramsey discussed her previous conversation with Denise and noted that Ms. Allen and her family were thinking about potentially creating a 501c3 non-profit to raise funds themselves to get the house worked on. Ms. Allen's life circumstances has changed and she has the time

now to devote to this cause and is willing to discuss that. She noted that there will be more discussions with her in the future.

D. Discussion/Review of Regular Council Meeting

- Proclamation Bradley G. Marlor years of service
- Resolution R2023-56 Justice Court recertification
- Open and Public Meeting Act, Land Use, Ethics, Hotline, and Social Media Training

Council Member Shelton motioned to add the Trainings scheduled for the tonight's regular City Council Meeting to the end of this Study Meeting. Council Member Zander seconded the motion; vote was 5-0, unanimous in favor.

Council Member Marlor motioned to recess the Council Study Meeting and move to Executive Closed Session. Council Member Harris seconded the motion; vote was 5-0, unanimous in favor.

RECESS CITY COUNCIL STUDY MEETING AND MOVE TO EXECUTIVE CLOSED SESSION

E. Executive Closed Session

E.1. Discussion of the purchase, exchange, or lease of real property.

Council Member Marlor motioned to adjourn the Executive Closed Session and return to the City Council Study Meeting. Council Member Harris seconded the motion; vote was 5-0, unanimous in favor.

RECESS EXECUTIVE CLOSED SESSION AND RETURN TO CITY COUNCIL STUDY MEETING

F. Training

F.1. Open and Public Meeting Act, Land Use, Ethics, Hotline, and Social Media Training. *(By City Attorney, Ryan Loose)*

City Attorney Ryan Loose and City Manager Dustin Lewis led the trainings for the Open and Public Meeting Act, Ethics, Hotline, and Social Media (Attachment A). The Land Use Training was previously completed.

ADJOURNMENT

Council Member Zander motioned to adjourn the December 5, 2023 City Council Study Meeting. Council Member Marlor seconded the motion; vote was 5-0 unanimous in favor.

The December 5, 2023 City Council Study meeting adjourned at 6:10 p.m.

SOUTH JORDAN CITY
BOARD OF CANVASSERS MEETING

December 5, 2023

Present: Mayor Dawn R. Ramsey, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Don Shelton, Council Member Tamara Zander, Council Member Jason McGuire, City Manager Dustin Lewis, Assistant City Manager Jason Rasmussen, City Attorney Ryan Loose, Director of Commerce Brian Preece, Director of Strategy & Budget Don Tingey, Lieutenant Fire Chief Ryan Lessner, Director of Administrative Services Melinda Seager, Director of Public Works Raymond Garrison, Director of Recreation Janell Payne, CFO Sunil Naidu, Director of Planning Steven Schaefermeyer, City Engineer Brad Klavano, Deputy Police Chief Rob Hansen, Communications Manager Rachael Van Cleave, GIS Coordinator Matt Jarman, Senior Systems Administrator Phill Brown, IT Director Jon Day, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun

Absent:

Others: Michele Hollist, Marianne Marlor, Cooper McDermid, Brandy McDermid, Aditya Narayanan, Mylee Wong, Lilly Wong, Gavin Bagley, Shaden Cokemere, Madeline Hope, Jack Hardy, Mitchell Sadowski, Grace Sadowski

6:22 P.M.

BOARD OF CANVASSERS MEETING

A. Call to Order: *By Mayor Dawn R. Ramsey*

Mayor Ramsey welcomed everyone present and introduced the meeting.

B. Business Items:

B.1. Convene as the Board of Canvassers and review the attached tabulation of election returns, identified as “Exhibit A,” of the November 21, 2023 Municipal General Election provided by the Salt Lake County Election Division.

Mayor Ramsey reviews those results.

B.2. Resolution R2023-55, accepting and approving the attached tabulation of 2023 Municipal Election returns, identified as “Exhibit A” and included as part of this Resolution is adopted. *(By City Recorder, Anna Crookston)*

Council Member Marlor motioned to approved Resolution R2023-55, accepting and approving the attached tabulation of 2023 Municipal Election returns. Council Member McGuire seconded the motion.

Roll Call Vote

Yes – Council Member Marlor

Yes – Council Member McGuire

Yes – Council Member Shelton

Yes – Council Member Harris

Yes – Council Member Zander

Motion passes 5-0, unanimous in favor.

C. Council Remarks

City Recorder Anna Crookston noted that the resolution presented to the council tonight had tomorrow night's date, and the Resolution has been amended to reflect tonight's date and time.

City Attorney Ryan Loose added that the published copy for the public had the correct date, this was just a clerical error.

Council Member Harris said this is a wonderful city that has grown over the years since he first joined the council. There is a wonderful Mayor, council members, and he looks forward to all the things still left to do to build out the city the best they can.

Council Member Zander is appreciative of the opportunity to serve and is grateful for many good people in the city who step up to vote, even when a candidate is unopposed. She takes running for office and serving the city seriously, and she has enjoyed her service. She thanked Council Member Marlor, it has been a pleasure to serve with him and he will be missed as a leader on the council. She appreciates serving with everyone here, and it is a special opportunity to run for office and serve those who elected you.

Council Member Marlor congratulated Council Member Elect Kathie Johnson. She has already been on the council, and he knows the next four years will be challenging but he is confident she will do a great job.

Council Member Shelton is grateful to live in an area, a state and city, where we can all feel confident about the results of elections. It is remarkable to have the opportunity to participate in our government. He discussed a recent article he read, with a statement from a previous LDS Church leader, saying something to the effect of a flawed proposal that is unanimously supported is likely to get you better results than a perfect proposal that is not unanimously supported. This Council votes unanimously most of the time, and that's because they have collaborated and worked together to get those greater results. He also congratulated Kathie and looks forward to working with her.

Council Member McGuire's kids asked what the change on the council will mean, and he said they will all work that out together. He is looking forward to getting to know Kathie as she joins the council. This council works so hard to work together, even through their differences, and that's what makes service so great. They've all had topics they disagree on, and they have always been able to talk through those and move forward with what's best for our city.

Mayor Ramsey shared that in the last 24 hours she has had five people running for other offices contact her for advice, and they ask what South Jordan's secret is to things going so well, Council Members running unopposed, etc.; that just isn't seen in other places. It's not because they all think the same way, but they do always work together towards a greater good.

ADJOURNMENT

Council Member McGuire motioned to adjourn the December 5, 2023 Board of Canvassers Meeting. Council Member Zander seconded the motion; vote was 5-0, unanimous in favor.

The December 5, 2023 Board of Canvassers meeting adjourned at 6:36 p.m.

SOUTH JORDAN CITY
CITY COUNCIL MEETING

December 5, 2023

Present: Mayor Dawn R. Ramsey, Council Member Patrick Harris, Council Member Brad Marlor, Council Member Don Shelton, Council Member Tamara Zander, Council Member Jason McGuire, City Manager Dustin Lewis, Assistant City Manager Jason Rasmussen, City Attorney Ryan Loose, Director of Commerce Brian Preece, Director of Strategy & Budget Don Tingey, Lieutenant Fire Chief Ryan Lessner, Director of Administrative Services Melinda Seager, Director of Public Works Raymond Garrison, Director of Recreation Janell Payne, CFO Sunil Naidu, Director of Planning Steven Schaefermeyer, City Engineer Brad Klavano, Deputy Police Chief Rob Hansen, Communications Manager Rachael Van Cleave, GIS Coordinator Matt Jarman, Senior Systems Administrator Phill Brown, IT Director Jon Day, City Recorder Anna Crookston, Meeting Transcriptionist Diana Baun, Strategy & Budget Analyst Abigail Patonai, Planning Commission Chair Michele Hollist

Absent:

Others: Marianne Marlor, Cooper McDermaid, Brandy McDermaid, Aditya Narayanon, Mylee Wong, Lilly Wong, Gavin Bagley, Shaden Cokemere, Madeline Hope, Jack Hardy, Mitchell Sadowski, Grace Sadowski, Heather Parlee, Claire Zamora, Alexis Gilber, Bridger Pedroza, AJ Hanselman, Adrienne Hanselman, Karyl Baun

6:36 P.M.
REGULAR MEETING

A. Welcome, Roll Call, and Introduction to Electronic Meeting - By Mayor Dawn Ramsey

Mayor Ramsey welcomed everyone and introduced the meeting.

B. Invocation – By Council Member, Jason McGuire

Council Member McGuire offered the invocation.

C. Pledge of Allegiance – By Director of Recreation, Janell Payne

Director Payne led the audience in the Pledge of Allegiance.

D. Minute Approval

D.1. November 7, 2023 City Council Study Meeting

D.2. November 7, 2023 City Council Meeting

D.3. November 8, 2023 City Council Strategic Planning Meeting

Council Member Shelton motioned to approve the November 7, 2023 City Council Study Meeting minutes, November 7, 2023 City Council Meeting minutes, and November 8, 2023 City Council Strategic Planning Meeting minutes as published. Council Member Council Member Harris seconded the motion; vote was unanimous in favor.

Council Member Zander motioned to amend tonight's agenda and remove Item J, as the training was done during the previous Study Session Meeting and has been completed. Council Member McGuire seconded the motion; vote was unanimous in favor.

E. Mayor and Council Reports

Council Member Don Shelton

- Attended the Grand Opening of Millcreek City Hall
- Judged the City's Gingerbread House Competition
- Attended Light the Night
- Attended the Legislative Policy Committee Meeting for the League
- Attended the Council of Government's Meeting for the Mayor
- Attended the Senior Advisory Committee Meeting
- Attended The Best Christmas Pageant Ever show
- Attended The Sounds of the Season Concert
- His brother Kent was elected to the West Jordan City Council.

Council Member Patrick Harris

- Attended a Sewer Board Meeting, which included a Truth in Taxation
- Attended Light the Night
- Attended recent SoJo Race and encouraged others to attend as well
- Attended the Golden Spike Awards and discussed the awards given to the city

Council Member Brad Marlor

- Discussed some of his family's recent activities
- Attended the Turkey Day Race, and shared how much he enjoys the Ruck races specifically
- Attended the Fullmer Legacy Center groundbreaking
- Met with a developer regarding the new senior center
- Missed Light the Night and apologized for his absence
- Shared a story from the HOA President of Reunion Village, highlighting his service
- Discussed his early family who settled in South Jordan and some background on his Great Great Grandfather, James Rueben Peterson, who was essentially the first mayor of the city

Council Member Zander

- Discussed how heartwarming it was to have residents still vote for her, even though she was running unopposed
- She has had many residents in the last month reaching out regarding ADUs and asked to have that on a future agenda
- Discussed welcoming the Herriman High students home who took first place Nationally in Cross Country
- Attended Light the Night
- Talked about the resident who crochets Christmas ornaments for the Police Department, and how thankful the police department is for her efforts

Council Member Jason McGuire

- Attended the VECC Open House
- Attended Light the Night
- Attended The Best Christmas Pageant Ever show

Mayor Dawn Ramsey

- Attended the DARE graduation at Monte Vista Elementary
- Spoke at a meeting for The Point, where they signed the Master Development Agreement for Phase One
- Attended Light the Night
- Attended the surprise homecoming for the Herriman Cross Country Students
- Visited with Dr. Arthur Brooks while he was in town with John Powell to host a forum
- Met with several candidates planning to run in political races in 2024 and asking for her advice on South Jordan's needs
- Attended the Rio Tinto 120 year celebration
- Attended the Fullmer Legacy groundbreaking
- Discussed the last school board meeting for the Jordan District Board of Education, construction on the next elementary school in South Jordan was approved
- Attended the National League of Cities Summit, speaking as well as attending classes, and discussed the city's connection and recognition with the Just Serve Organization
- Had visits with residents for multiple reasons, and she always enjoys visiting with residents
- Attended the Sounds of the Season Concert, discussed the conductor retiring and the new one stepping up

F. Public Comment

Mayor Ramsey opened the public comment portion of the meeting.

Michele Hollist (Resident) – I wanted to personally thank Council Member Marlor and his wife. The last eight years have been a sacrifice and they did it, knowing what it entailed, because they did it for eight years before. Thank you Council Member Marlor, I know now that I have seen

you working behind the scenes for the past five years that it's not always a thanked job. Sometimes there are hard decisions that have to be made, and I have appreciated watching how you balance that with what meets the needs of the city moving forward, what meets the needs of the majority and trying to make level and fair decisions that benefit our community. To Council Member McGuire, my children benefit so much from your arts program. My daughter just had a new utility box installed, the one with the lights that looks like city council, over by the Gale Center; we appreciate that. Also, two of my children were in the Greatest Christmas Pageant Ever. Thank you everyone for all you do, this is a great city and it has been such a privilege to serve on the planning commission and thank you for that opportunity.

Claire Zamora (Resident) – I would like to talk about the reflective striping for South Jordan City. Many of the Bingham High Students and I would like to suggest adding reflective striping to South Jordan's Roads. I don't have the best eyesight, along with many others, and I would like to suggest that.

Mayor Ramsey closed the public comment portion of the meeting.

G. Presentation Item

G.1. Proclamation in recognition of Bradley G. Marlor's Years of Service. (By Mayor, Dawn Ramsey)

Before reading the proclamation she shared some of the notable actions completed by Council Member Marlor during his years of service to the city:

- Initiated Voting Districts
- Initiated a citywide, fully engineered transportation plan
- Initiated connection of 9800 S and 10600 S
- Development of the Jordan River Parkway Project
- Helped negotiate the Daybreak Master Development Agreement, and approved the initial agreement to annex Daybreak into the city
- Part of the Council that approved The District
- Part of the Council that approved the retail development where Harmon's is located, whose sales tax alone allowed the construction of the current City Hall
- Part of the Council that approved tens of millions of dollars in bonding to repair and build water towers and additional infrastructure

Mayor Ramsey read the proclamation and invited Council Member Marlor to share his thoughts.

Council Member Marlor thanked the mayor and council. The one thing he wanted to do tonight was thank everyone for the privilege and opportunity he has been given over the years. He thanked his wife, who has put up with the phone calls and visits over the years. He appreciated her support, as well as his childrens' support over the years. He appreciates all the support from residents he has had, noting that he knew changes needed to happen after first moving here, which is what pushed him to run for office. He ran for office twice unsuccessfully, making more progress over the years, and then being invited to the Planning Commission. He felt like they needed more commercial development in the city and that prompted his involvement in many

committees as well to raise the tax base. Many people were opposed to the commercial development, and a previous council actually moved the borders of South Jordan from State Street to the I-15, as well as from 9000 S. to 9400 S., to avoid that “nasty” commercial development in the city. He appreciates the residents eventually supporting and electing him. He was appointed to the City Council in 2000, and after changing to voting districts his district came up first, causing him to serve two years as the districts were alternating. He asked Jason Rasmussen and Anna Crookston for a list of all the council he had served on, and he read a list of all those council members. He noted that he felt Skip Criner and Russ Sanderson were his mentors as a new council member in the early days, they were so supportive and he appreciated that. He thanked the current council for the collaboration over the years, and for the respect they have been able to have when they did not agree. He thanked the executive staff for all their hard work. The city has grown so much since 2000, and he is grateful for those years of service he was privileged to have.

Council Member Zander shared how much she has loved working with him, and how much she will miss him on the council.

Council Member Shelton agreed with what has been said about his excellent leadership. When he thinks about his experiences with Council Member Marlor, the two words that come to him are visionary and courageous.

Council Member McGuire expressed his thanks to Council Member Marlor. He has always seen him as the steady captain at the wheel, providing leadership, clarity, helping to move the ship forward. He also appreciates the way he and his wife let them into their family.

Council Member Harris stated that Council Member Marlor has shown the many things he does prior to the council meetings to make things move forward. Some projects that might not seem feasible saw Council Member Marlor working hard to make progress and allowing the city those benefits.

Mayor Ramsey shared that when she was elected, Council Member Marlor told her he was there to support her and work together. She was able to learn from him, seeing his leadership and strength, and labeling him as fearless. He has never waived on his steady leadership and commitment to doing the right thing for the city and the residents living here.

Marianne Marlor – shared that Brad is an amazing person, and she never could have served on the City Council. She has a lot of respect for him, as well as the other council members and staff. She thanked everyone for supporting him and for the opportunity he has had to serve.

Kathie Johnson – Shared that she was there when Council Member Marlor was selected to be on the Council that first time, in fact she thinks she was his first appointee to the Planning Commission about a month later. She thanked him for being so decisive and eloquent when discussions are heated.

H. Action Item

H.1. Resolution R2023-56, Requesting recertification of the City of South Jordan Municipal Justice Court. *(By City Attorney, Ryan Loose)*

City Attorney Loose reviewed background information from the Council Report.

Council Member Marlor motioned to approve Resolution R2023-56, Requesting Recertification of the City of South Jordan Municipal Justice Court. Council Member Zander seconded the motion.

Roll Call Vote

Yes – Council Member Marlor

Yes – Council Member Zander

Yes – Council Member Harris

Yes – Council Member Shelton

Yes – Council Member McGuire

Motion Passes 5-0, unanimous in favor.

I. Staff Reports and Calendaring Items

Manager Lewis talked about the puzzle contract with Mr. Dowdle. The artwork has been finalized and it will go into production for puzzles, which will be available to the public at the great unveiling on the Thursday of Summerfest in June.

Mayor Ramsey brought up that Thursday being the district high school graduations, which includes her daughter.

Manager Lewis said he would work with the company to try and adjust the timing on that. He also mentioned that on January 2, 2024, during the work session they will be discussing board appointments and committee assignments, asking the council members to assess their positions and be ready to discuss their needs.

Attorney Loose has reached out to the city's legislators, and the week between Christmas and New Year's has the most availability for them to meet with local officials.

J. Training

J.1. Open and Public Meeting Act, Land Use, Ethics, Hotline, and Social Media Training. *(By City Attorney, Ryan Loose)*

****Removed per previously amended agenda****

Council Member Marlor motioned to adjourn the City Council Meeting. Council Member McGuire seconded the motion; vote was 5-0 unanimous in favor.

ADJOURNMENT

The December 5, 2023 City Council Meeting adjourned at 8:09 p.m.

UNAPPROVED

RESOLUTION R2024-01**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, PROCLAIMING JANUARY 16, 2024 AS RELIGIOUS FREEDOM DAY IN THE CITY OF SOUTH JORDAN.**

WHEREAS, the United States Congress in 1992 set aside January 16th as “Religious Freedom Day” to honor the passage of the Virginia Statute for Religious Freedom in 1786; and

WHEREAS, Religious Freedom Day has been recognized by presidential and State proclamations annually; and

WHEREAS, many of the first immigrants to our nation came to these shores motivated by their desire for religious liberty so that they could worship according to the dictates of their own consciences and our forefathers saw fit to protect and support freedom of religion by establishing it in the first amendment of the United States Constitution; and

WHEREAS, those of faith, and those of no faith, have common goals of unity, love, service, mutual civility, and a desire to live true to belief and conscience; and

WHEREAS, we seek mutual respect and fairness to all; and

WHEREAS, the right to exercise one's own individual conscience is a critical and essential element in the fabric of American culture and history which serves as a beacon of freedom in the world and we recognize one's faith is core to an individual's identity and humanity; and

WHEREAS, we invite others to defend freedom of religion, including the long standing Religious Freedom Restoration Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. The City Council recognizes the religious freedom of all residents of the City of South Jordan, commemorates the enactment of the Virginia Statute for Religious Freedom on January 16, 1786, and declares January 16th each year as “Religious Freedom Day” in the City of South Jordan.

SECTION 2. Effective Date. This Resolution shall become effective immediately upon passage.

[SIGNATURE PAGE FOLLOWS]


**APPROVED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH,
ON THIS _____ DAY OF _____, 2024 BY THE FOLLOWING VOTE:**

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Kathie Johnson	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: _____
Dawn R. Ramsey

Attest: _____
City Recorder

Approved as to form:


Ryan W. Loose (Dec 28, 2023 09:00 MST)

Office of the City Attorney

SOUTH JORDAN CITY CITY COUNCIL REPORT

Meeting Date: 1/2/24

Application: TEXT AMENDMENT - AMENDING SUBSECTIONS 17.04.240 (PUBLIC UTILITIES), 17.18.020 (ALLOWED USES), 17.18.030 (USE REGULATIONS), AND 17.18.060 (USE DEFINITIONS) OF THE SOUTH JORDAN CITY MUNICIPAL CODE TO CHANGE PUBLIC UTILITY AND RESTAURANT USES FROM CONDITIONAL TO PERMITTED.

File No: PLZTA202300054

Applicant: South Jordan City

Submitted By: David Mann, Long Range Planning Analyst

Presented By: Steven Schaefermeyer, Director of Planning

Staff Recommendation (Motion Ready): Based on the staff report and other information presented to the City Council during the public hearing, and the Planning Commission's positive recommendation, I move that the City Council **approve** Ordinance 2024-01.

BACKGROUND:

South Jordan City filed an application to amend sections in Title 17 of the South Jordan City Municipal Code ("City Code") regarding public utility and restaurant uses. The proposed text amendment changes the "Utility Services" use from conditional to permitted, removes unnecessary definitions that distinguish between a "Major Utility Facility" and a "Minor Utility Facility," changes the "Restaurant" use from conditional to permitted in the C-C, C-N, and P-O zones.

Designating a use in a particular zone as "conditional," and requiring a conditional use permit (CUP), is a strategy that cities must use sparingly and carefully. Contrary to popular belief, conditional uses are not a tool that gives cities discretion to deny a use when there is public outcry or there are other objections to a use on a particular property that the city failed to see when it zoned the property. City staff hopes this proposal will continue the discourse about conditional uses, and what uses the City designates as CUPs in the future.

ANALYSIS:

Conditional Use Review:

State law, City Code and noteworthy court rulings have shaped a city's proper application and review of conditional uses. Over the past few decades, it has become increasingly clear that the way cities have historically used and applied conditional uses is no longer defensible or appropriate. In South Jordan, the Planning Commission reviews for approval all proposed conditional uses, and has been trained often by City staff and other sources how to properly

review conditional uses. This has allowed the City to avoid its approval or denial of conditional use permits from being successfully challenged.

The Planning Commission must approve a conditional use permit application if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed conditional use in accordance with applicable standards. While that sounds straight forward, it is not. The Commission cannot find or base a detrimental effect solely on anecdote, public outcry, fear, or a distaste for the particular circumstances or applicant. To say that a use will cause a detrimental effect requires real evidence of anticipated harm. Even if the Commission identifies a detrimental effect backed by real evidence, the Commission must still approve the CUP if reasonable conditions can be imposed to mitigate the harm. Thus it is rare that the Commission could deny a conditional use permit application because there are no reasonable conditions that could be imposed to substantially mitigate—not get rid of—the reasonably anticipated detrimental effect.

Because of the complicated nature of conditional uses, City staff believes it is better simply to designate uses as either allowed or not permitted, and adopt reasonable standards for the establishment and regulation of permitted uses. To that end, in 2015 the City Council adopted “Impact Control Measures” to better manage potential negative impacts on neighboring properties generally caused by certain uses. The impact control measures are found in City Code § 17.18.040 and are a menu of various studies or measures that may apply to particular uses. The impact control measures are in addition to the general zone requirements where a proposed use will be located. The impact control measures that may apply to a use include a traffic study, circulation and access plan, operations plan, sound study, rehabilitation and containment plan, additional public notice requirement and residential protection areas. City staff asserts that impact control measures are more proactive in identifying and mitigating potential harms than the complicated CUP process.

The Utility Services and Restaurant uses are good examples of uses where designating them as conditional and requiring a conditional uses permit has not mitigated potential harms to neighboring properties or changed outcomes for the better.

Utility Services Use:

A 2018 Rocky Mountain Power application for a transmission line upgrade is a good example of why City staff believes that it is necessary to change “Utility Services” from a conditional use to a permitted use. Rocky Mountain Power submitted a CUP application to upgrade a transmission line that ran through South Jordan within recorded easements and that it would not relocate. City staff scheduled a public hearing and sent out notices to all property owners within the required radius from the utility line. Residents shared concerns with City staff and the Planning Commission, which led to extensive review of the project over many months. Ultimately, the Commission approved the CUP due to the lack of evidence that it could legally consider the resident’s as detrimental effects. The Planning Commission also could not regulate the public

utility project through imposing conditions on the CUP more than state and federal law were already regulating the public utility.

Based on this example and others, City staff has proposed changing the designation for the “Utility Services” use from conditional to permitted and removing unnecessary definitions that distinguish between a “Major Utility Facility” and a “Minor Utility Facility.” Even with this proposed change, City Code requires public utility companies to consult with the City Engineer regarding any new or upgraded service lines or facilities, and comply with other requirements of the City Code, including impact control measures.

Restaurant Use:

City staff has also proposed changing the “Restaurant” use from conditional to permitted in the C-C, C-N, and P-O zones. After reviewing numerous restaurant project applications in commercial areas, Staff has found little to no evidence of detrimental impacts in the identified zones that would warrant further analysis. The City Code already contains regulations that limit the impact a restaurant use would have on surrounding properties. Restaurants are also a use that residents consistently ask for more of and are some of the key anchors to modern shopping centers. On the other hand, drive-through facilities, whether or not associated with a restaurant use, will continue to be not permitted in the P-O zone, and to be an accessory use in the C-C and C-N zones that requires a conditional use permit and will be reviewed as such for all future projects. Drive-through are also subject to various impact control measures.

STAFF FINDINGS, CONCLUSIONS & RECOMMENDATIONS:

Findings:

- Utah Code § 10-9a-102 grants the City Council a general land use authority to enact regulations that it considers necessary or appropriate for the use and development of land in the City, including maintaining the aesthetics of the City and protecting the tax base, and the City Council has the power to amend its land use regulations. (See Utah Code § 10-9a-501 et seq.)
- Staff has proposed changes to the municipal code to convert some conditional uses to permitted uses, as outlined in the attached ordinance. These changes are proposed due to the difficulty of effectively regulating these uses as conditional, a lack of necessary evidence of “detrimental effects” on surrounding properties, other effective regulations in City Code that manage harm to neighboring properties, and the necessity or desirability of these uses throughout the City.
- The Planning Commission forwarded a recommendation of approval for the proposed text amendment with a 6-0 vote on April 11, 2023. The Commission did express concern about the length of time between its recommendation and the City Council’s review of the application.

Conclusion:

The proposed text amendment will avoid unnecessary and ineffective CUP review of public utility and restaurant uses, and provide more flexibility in the application and approval for these uses.

ALTERNATIVES:

- Deny the application.
- Propose modification(s) to the application.
- Schedule the application for a decision at some future date.

SUPPORT MATERIALS:

- Redlined draft of proposed text amendment
- Ordinance 2024-01
- Planning Commission packet for file #PLCUP201800742
- Minutes from the Planning Commission meeting held on 4/11/23



David Mann
Long-range Planner

Department Approval:

Steven Schaefermeyer (Dec 28, 2023 09:21 MST)

Steven Schaefermeyer
Director of Planning

17.18.020: ALLOWED USES

- A. Regulations: Development or use of a property for primary uses not specifically allowed in the table in subsection C of this section or approved by the provisions of this chapter and this Code are prohibited, except as otherwise determined by the Planning Director according to subsection 17.18.030.010B of this chapter. Regardless of whether a primary use is allowed as a permitted or conditional use, the regulations of this title shall apply. Allowed uses shall be identified in the allowed uses table in subsection C of this section with a "P" for a permitted use and a "C" for a conditional use. (Ord. 2016-02, 4-19-2016; amd. Ord. 2019-01, 3-5-2019)
- B. Classifications: The classification of uses as agricultural, residential, public, commercial, and industrial, and associated grouping within each category, is for organizational and reference purposes. (Ord. 2016-02, 4-19-2016)
- C. Allowed Uses Table:

P	=	Permitted	C	=	Conditional
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		Zones											
		A-5 A-1	BH - M U	C- C	C- F	C- I	C- N	I- F	MU -TC MU - TO D	P- O	R- 1. 8	R- 2. 5 R- 3 R- 4 R- 5	R- M
Agricultural		Animal husbandry	P										
		Horticulture	P										
		Plant nursery	C	C	C	C					C		
		Public agricultural facility	C								C		
Residential:													
	Group living	Community residential facility		C						C			C
		Dormitory											
		Institutional facility											
	Household	Live-work		C									
		Multi-family											
		Neighborhood residential facility	P								P	P	P
		Single-family, attached											P

			Zones											
Category	Uses		A-5 A-1	BH - M U	C-C	C-F	C-I	C-N	I-F	MU-TC MU- TO D	P-O	R-1. 8	R-2. 5 R-3 R-4 R-5	R-M
		Single-family, detached	P									P	P	P
Public:														
	Civic and community	Cemetery												
		Community services	C	C	C	P	P	C	P	C	C	C	C	C
		Public safety	C	C	C	C	C	C	C	C	C	C	C	C
		Religious assembly and worship	C	C	C	C	C	C	C	C	C	C	C	C
	Education	Elementary/secondary education	C	C	C	C				P	C	C	C	C
		University/college		C	C	C			C	P	C			
		Vocational/professional		C	C	C			C	P	C			
	Open space	Natural open space												
		Park open space		C						C				
	Utility and communication	Energy conversion	C				C		C					
		Telecommunication facility	C		C	C	C	C	C		C	C	C	C
		Utility services	C P		C P	C P	C P	C P	C P		C P	C P	C P	C P
Commercial:														
	Services	Animal services			C	C	C	C						
		Business support		P	C	P	P		P	P	P			
		Daycare	P	P	P	P		P	P	P	C	P	P	P

Category	Uses	Zones											
		A-5 A-1	BH - M U	C- C	C- F	C- I	C- N	I- F	MU- TC MU- TO D	P- O	R- 1. 8	R- 2. 5 R- 3 R- 4 R- 5	R- M
	Financial institution		P	P	P		C	P	P	P			
	Hospital		C		C					C			
	Light service and repair		C	C	C	P	C	P					
	Lodging		P	C	P		C	P	P	C			
	Medical/dental office or clinic		P	P	P		P	P	P	P			
	Mortuary/funeral home			C						P			
	Office		P	P	P		P	P	P	P			
	Personal services		P	P	P		P	P	P	P			
	Professional services			P	P		P	P	P	P			
	Restaurant		P	G P	P		G P	P	P	G P			
	Self-storage			C	C	C				C			
	Vehicle repair					C		C					
	Vehicle services		C	C	C	P		P	C				
Recreation and assembly	Arts and recreation		P	P	P	P		P	P	P			
	Convention/reception center			C	C			C	C	C			
	Instruction and training			P	C	P	P	P		C			
	Outdoor recreation		C	C	C			C					
	Stadium/theater/auditorium		C	C	C			C	C				

			Zones											
			A-5 A-1	BH - M U	C- C	C- F	C- I	C- N	I- F	MU- TC MU- TO D	P- O	R- 1. 8	R- 2. 5 R- 3 R- 4 R- 5	R- M
Category	Uses													
	Retail	Gas station		C	C	C	C	C	C	C				
		General retail		P	P	P	P	P	P	P				
		Kiosk, freestanding		P	C	C					P			
		Shopping center/department store		P	C	C			C	P				
		Vehicle sales and rental		C		C			C					
Industrial:														
	Manufactur ing and production	Assembly					P		P					
		Fabrication					C		C					
		Manufacturing					C		C					
		Mining												
	Sales and service	Commercial service and repair					C		C					
		Food and drink preparation					C		C					
		Heavy equipment sales and rental					C		C					
		Office/warehouse flexible space					P		P					
		Research and development					P		P		C			
		Storage yards					C							
Wholes ale and wareho use				P		P								

		Zones											
Category	Uses	A-5 A-1	BH - M U	C- C	C- F	C- I	C- N	I- F	MU -TC MU - TO D	P- O	R- 1. 8	R- 2. 5 R- 3 R- 4 R- 5	R- M
	Transportation	Aircraft transportation											
		Parking facility								C			
		Passenger terminal/station			C	C	C		C	C	C		
		Railroad facility					C						
	Waste	Refuse											
		Salvage					C		C				

17.18.030.040: PUBLIC USE REGULATIONS

A. General Public Use Regulations:

- There shall be no open storage of trash, debris, materials, equipment, goods or inventory, except for the following: those activities specifically allowed in conjunction with an approved use on the premises; temporary displays of products associated with a retail business that are removed daily; outdoor storage of inventory or products such as firewood, water softener salt, landscaping materials, and other building materials in screened areas designated on an approved site plan; and temporary uses consistent with those described in this chapter.
- All public uses shall be conducted within completely enclosed buildings, unless otherwise allowed in this chapter, except those uses defined to allow outdoor activities and those temporary uses customarily conducted in the outdoors, including Christmas tree lots, firework stands and parking lot sales associated with an approved use on the property. Parking lot sales may not be conducted more than four (4) 1-week periods per year.
- Public uses in agricultural or residential zones shall be located on a legal lot or parcel with frontage and access to a collector or arterial street, with the following exceptions:
 - Religious assembly and worship; and
 - Utility service, ~~not including a major utility facility.~~

B. Specific Regulations By Public Use:

- Elementary/Secondary Education, University/College, Vocational/Professional: A conditional use permit is not required in the BH-MU Zone when the use is located on a legal lot or parcel with frontage and access to a collector or arterial street. (Ord. 2017-05, 3-7-2017)
- Utility Service: ~~Minor~~ Utility facilities that are not considered a primary use ~~and~~ may be allowed in all zones and on all lots or parcels at the discretion of the City Engineer according to section 17.04.240 of this title.

(Ord. 2017-22, 7-18-2017)

17.18.030.050: COMMERCIAL USE REGULATIONS

A. General Commercial Use Regulations:

1. There shall be no open storage of trash, debris, materials, equipment, goods or inventory, except for the following: those activities specifically allowed in conjunction with an approved use on the premises; temporary displays of products associated with a retail business that are removed daily; outdoor storage of inventory or products such as firewood, water softener salt, landscaping materials, and other building materials may be allowed in sales/storage yards as an accessory use according to section 17.18.030.070 of this chapter. No more than twelve (12) small party balloons and six (6) weatherproof placards, each not exceeding two (2) square feet, per business may be attached to temporary displays and shall be removed daily with the displays. Allowed storage and displays shall be located a minimum of five feet (5') from any travel lane, outside of a public right-of-way, and shall allow pedestrian walkways of a minimum width of at least six feet (6') to remain unobstructed.
2. All commercial uses shall be conducted within completely enclosed buildings, except as otherwise allowed in this chapter, including, but not limited to, those uses defined herein that allow outdoor activities or allowed temporary uses per section 17.18.030.080 of this section 17.18.030.
3. No vehicle, boat or trailer, or parts thereof, that is in a wrecked, junked, dismantled, inoperative or abandoned condition, attended or not, may be parked or stored for longer than seventy two (72) hours unless stored within a completely enclosed building or behind an opaque fence enclosure that completely obscures said vehicle or parts from public view. No more than two (2) such vehicles may be so stored on a lot, except in conjunction with approved vehicle repair use.
4. Public address and music systems shall be designed and operated so they are not discernible at the property line of any lot or parcel containing a single-family home.
5. Commercial uses in Agricultural or Residential Zones shall be located on a legal lot or parcel with frontage and access to a collector or arterial street.

B. Specific Regulations By Commercial Use:

1. Animal Services: All commercial uses involving animals shall be conducted within an enclosed facility that is maintained and operated so that neither the sound nor smell of any animals kept on the premises can be discerned on adjacent lots or parcels. Outdoor animal runs may be approved as an accessory use with a conditional use permit and shall meet the following requirements: located a minimum of three hundred feet (300') from the property line of a Residential Zone, educational institution, or place of worship.
2. Arts And Recreation: All gun ranges require a conditional use.
3. Daycare: Daycare use in Residential Zones, excluding those operating as an approved home occupation business, are required to be located on a minimum one acre legal lot or parcel.
4. Financial Institution, Nondepository:
 - a. Establishments shall be located no closer than one mile from other similar establishments.
 - b. Use activities shall be limited to short term title loan and short term consumer installment loan business.
 - c. The following services are specifically prohibited: "cash for gold", "cash for precious metals", and the processing or storage of repossessed vehicles or other repossessed property.
 - d. All business activity, including customer queuing, shall be accommodated inside the building.
5. Gas Station: Where buildings in the MU Zone are built to the street, associated vehicle bays, gas pumps, and vacuums shall be located to the side or rear of the main building.
6. General Retail; C-N Zone: Secondary metals dealer, recycler, and other similar businesses are prohibited in the C-N Zones. (Ord. 2017-05, 3-7-2017)
7. Kiosks, Freestanding: Kiosks, freestanding use may only be conducted with an approved site plan. Kiosks shall not be allowed on parcels less than three (3) acres in size and shall be separated by a minimum distance of four hundred (400) linear feet from all other outdoor kiosks. Kiosks shall not be allowed within required landscaped yard areas, building setbacks, within fifty feet (50') of a building

or within thirty feet (30') of the public right-of-way. Kiosk structures shall not exceed twenty (20) square feet in area nor ten feet (10') in height and shall incorporate materials and colors of surrounding buildings as determined by the Planning Director. Kiosks with drive-up facilities shall be designed to allow for a minimum of two (2) vehicles to be queued at any one given time without obstructing drive aisles or other functionality of other parking stalls as determined by the City Engineer. There shall be multiple twenty four (24) hour video surveillance and adequate illumination as determined by the City's Public Safety Department. All kiosks shall be securely mounted and anchored to the ground as determined by the City building official. (Ord. 2017-05, 3-7-2017; amd. Ord. 2019-01, 3-5-2019)

8. Medical/Dental Office Or Clinic: Medical/dental office or clinic buildings in the C-N Zone shall not exceed five thousand (5,000) square feet.
9. Office: Office buildings in the C-N Zone shall not exceed five thousand (5,000) square feet.
10. Outdoor Recreation: Where facilities are approved within three hundred feet (300') of the property line of a Residential Zone, all outdoor lighting shall be extinguished when the facilities are not operating, or by ten o'clock (10:00) P.M. on Sundays through Thursdays, and by eleven o'clock (11:00) P.M. on Fridays and Saturdays, whichever is earlier.
11. Personal Services: Laundry/dry cleaning activities require a conditional use permit in the BH-MU Zone.
12. Restaurant: ~~The combined site area of restaurant uses shall occupy no more than twenty percent (20%) of the area within any individual P-O Zone area.~~ Drive-through facilities associated with a restaurant use are prohibited in the P-O Zone.
13. Self-Storage:
 - a. C-C Zone: Self-storage uses shall not exceed six (6) total acres in the C-C Zone.
 - b. C-F Zone: Self-storage uses shall not exceed six (6) total acres in the C-F Zone, and shall not be located on any property with a General Plan designation of TOD or on property located east of 250 West Street.
 - c. P-O Zone: Self-storage uses shall not exceed three (3) acres in the P-O Zone.
14. Shopping Center/Department Store: Shopping center/department store uses shall have direct access to a major collector or arterial road. Individual uses in a shopping center/department store use shall each comply with the requirements of this Code.
15. Vehicle Sales And Rental: Uses involving vehicle sales shall include a building of not less than eight thousand (8,000) square feet.
 - a. BH-MU Zone: Vehicle inventory, which includes vehicles kept for sale or rental, shall only be kept within a completely enclosed building. (Ord. 2017-05, 3-7-2017)
16. Vehicle Services:
 - a. Where buildings in the MU Zone are built to the street, vehicle bays and vacuums shall be located to the side or rear of the building.
 - b. Car washes are prohibited as a primary use, except that the use and structure of a car wash that was legally established and complied with this title as of July 18, 2017, shall not be considered non-conforming by this subsection.

(Ord. 2017-22, 7-18-2017)

17.18.060: USE DEFINITIONS:

C. Public:

4. Utility and communication:

Energy conversion: Facilities and land used or intended to be used for the production of energy from natural forces such as wind, water, sunlight, geothermal heat, or biomass to be utilized beyond on site consumption.

Telecommunication facility: Freestanding buildings, structures and towers primarily intended for transmission or reception of communication signals between and among different points.

Utility services: Facilities engaged in the transmission, distribution or disposal of electricity, gas, sewer, and water. Activities commonly associated with this use include generating plants, substations, storage tanks, towers, treatment plants, pump stations, and water wells.

~~Major utility facility. Facilities that include the following: sewer facilities, other than below grade lines; regional power generation, other than energy conversion; and aboveground facilities on a site exceeding ten thousand (10,000) square feet.~~

~~Minor utility facility. Infrastructure for local distribution and service, such as switch boxes, transformer boxes, and underground water and sewer lines, within established rights of way or public utility easements.~~

17.04.240: PUBLIC UTILITIES:

A. The City Engineer may approve the following public utilities in any zone: (Ord. 2007-02, 1-16-2007; amd. Ord. 2019-01, 3-5-2019)

1. Electric power transmission and distribution lines ~~with a capacity of less than sixty nine (69) kV.~~
2. Gas transmission and distribution lines ~~with a design pressure of less than six hundred (600) psi and pipe diameter of less than sixteen inches (16").~~
3. Canals and water transmission and distribution lines ~~with a capacity of less than two hundred (200) second feet.~~
4. Motor vehicle roads and driveways.
5. Railroad tracks.
6. Telephone lines.
7. Cable television or communication lines.
8. Communication towers (see chapter 17.112 of this title).
9. Easements, rights of way, service driveways or accessory structures which are appurtenant to the above uses.

~~B. The following large scale public utilities may be allowed in all zones subject to the granting of a conditional permit:~~

- ~~1. Electric power transmission lines with a capacity of sixty nine (69) kV or greater.~~
- ~~2. Gas transmission lines with a design pressure of six hundred (600) psi or greater and pipe diameter of sixteen inches (16") or larger.~~
- ~~3. Water transmission lines with a capacity of two hundred (200) second feet or greater.~~
- ~~4. Communication towers (see chapter 17.112 of this title).~~
- ~~5. Any easements, rights of way, service driveways, or accessory structures which are appurtenant to the above uses.~~

ORDINANCE NO. 2024 - 01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, AMENDING SECTIONS 17.04.240 (PUBLIC UTILITIES), 17.18.030 (USE REGULATIONS), AND 17.18.060 (USE DEFINITIONS) OF THE SOUTH JORDAN CITY MUNICIPAL CODE TO CHANGE PUBLIC UTILITY AND RESTAURANT USES FROM CONDITIONAL USES TO PERMITTED USES.

WHEREAS, Utah Code § 10-9a-102 grants the City of South Jordan (the “City”) authority to enact ordinances that the South Jordan City Council (the “City Council”) considers necessary or appropriate for the use and development of land within the City; and

WHEREAS, the City of South Jordan has submitted an application to amend Sections 17.04.240 (Public Utilities), 17.18.030 (Use Regulations), and 17.18.060 (Use Definitions) of the South Jordan City Municipal Code; and

WHEREAS, the subject text amendments are designed to save time and prevent confusion by changing the “Utility Services” use and the “Restaurant” use from conditional uses to permitted uses; and

WHEREAS, the City Council has held a public hearing and reviewed the subject text amendment; and

WHEREAS, the City Council finds that the subject text amendment will enhance the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH:

SECTION 1. Amendment. Sections 17.04.240 (Public Utilities), 17.18.030 (Use Regulations), and 17.18.060 (Use Definitions) of the South Jordan City Municipal Code, as shown in the attached **Exhibit A**, are hereby amended.

SECTION 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance and all sections, parts, provisions and words of this Ordinance shall be severable.

SECTION 3. Effective Date. This Ordinance shall become effective immediately upon publication or posting as required by law.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SOUTH JORDAN, UTAH, ON THIS _____ DAY OF _____, 2024 BY THE FOLLOWING VOTE:

	YES	NO	ABSTAIN	ABSENT
Patrick Harris	_____	_____	_____	_____
Kathie Johnson	_____	_____	_____	_____
Donald Shelton	_____	_____	_____	_____
Tamara Zander	_____	_____	_____	_____
Jason McGuire	_____	_____	_____	_____

Mayor: _____
Dawn R. Ramsey

Attest: _____
City Recorder

Approved as to form:



Office of the City Attorney

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)**17.04.240**

A. The City Engineer may approve the following public utilities in any zone:

1. Electric power transmission and distribution lines ~~with a capacity of less than sixty nine (69) kV.~~
2. Gas transmission and distribution lines ~~with a design pressure of less than six hundred (600) psi and pipe diameter of less than sixteen inches (16").~~
3. Canals and water transmission and distribution lines ~~with a capacity of less than two hundred (200) second feet.~~
4. Motor vehicle roads and driveways.
5. Railroad tracks.
6. Telephone lines.
7. Cable television or communication lines.
8. **Communication towers (see chapter 17.112 of this title).**

9. Easements, rights of way, service driveways or accessory structures which are appurtenant to the above uses.

~~B.~~ The following large scale public utilities may be allowed in all zones subject to the granting of a conditional permit:

- ~~1. Electric power transmission lines with a capacity of sixty nine (69) kV or greater.~~
- ~~2. Gas transmission lines with a design pressure of six hundred (600) psi or greater and pipe diameter of sixteen inches (16") or larger.~~
- ~~3. Water transmission lines with a capacity of two hundred (200) second feet or greater.~~
- ~~4. Communication towers (see Chapter 17.112 of this title).~~
- ~~5. Any easements, rights of way, service driveways, or accessory structures which are appurtenant to the above uses.~~

~~€B.~~ Public facilities shall be subject to all of the height, bulk, location and other standards for the zone in which they are located except:

1. There shall be no minimum lot size required.
2. Only walled and/or roofed structures shall be required to meet the yard requirements (setbacks) of the zone. Otherwise, the public facilities listed in this section shall have no minimum yard requirements.

~~ĐC.~~ In new developments, all utility lines and structures shall be installed underground in properly recorded easements according to city engineering and public utility standards. Junction boxes, monitoring and pump stations and other aboveground utility structures not listed above in excess of thirty (30) square feet in area or over four feet (4') in height shall require conditional use permit approval prior to installation.

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)**17.08.020 C**

Allowed Uses Table:

Key:

P = Permitted

C = Conditional

		Zones											
Category	Uses	A- 5 A- 1	BH- MU	C- C	C- F	C- I	C- N	I- F	MU- TC MU- TOD	P- O	R- 1.8	R- 2.5 R- 3 R- 4 R- 5	R- M
Agricultural	Animal husbandry	P											
	Horticulture	P											
	Plant nursery	C	C	C	C						C		
	Public agricultural facility	C									C		
Residential:													
Group living	Community residential facility		C							C			C
	Dormitory												
	Institutional facility												
Household	Live-work		C										
	Multi-family												

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)

	Neighborhood residential facility	P									P	P	P
	Single-family, attached												P
	Single-family, detached	P									P	P	P
Public:													
Civic and community	Cemetery												
	Community services	C	C	C	P	P	C	P	C	C	C	C	C
	Public safety	C	C	C	C	C	C	C	C	C	C	C	C
	Religious assembly and worship	C	C	C	C	C	C	C	C	C	C	C	C
Education	Elementary/secondary education	C	C	C	C				P	C	C	C	C
	University/college		C	C	C			C	P	C			
	Vocational/professional		C	C	C			C	P	C			
Open space	Natural open space												
	Park open space		C						C				
Utility and communication	Energy conversion	C				C		C					
	Telecommunication facility	C		C	C	C	C	C		C	C	C	C
	Utility services	<u>€</u> <u>P</u>		<u>€</u> <u>P</u>	<u>€</u> <u>P</u>	<u>€</u> <u>P</u>	<u>€</u> <u>P</u>	<u>€</u> <u>P</u>		<u>€</u> <u>P</u>	<u>€</u> <u>P</u>	<u>€</u> <u>P</u>	<u>€</u> <u>P</u>
Commercial:													
Services	Animal services			C	C	C	C						

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)

	Business support		P	C	P	P		P	P	P			
	Daycare	P	P	P	P		P	P	P	C	P	P	P
	Financial institution		P	P	P		C	P	P	P			
	Hospital		C		C					C			
	Light service and repair		C	C	C	P	C	P					
	Lodging		P	C	P		C	P	P	C			
	Medical/dental office or clinic		P	P	P		P	P	P	P			
	Mortuary/funeral home			C						P			
	Office		P	P	P		P	P	P	P			
	Personal services		P	P	P		P	P	P	P			
	Professional services			P	P		P	P	P	P			
	Restaurant		P	C <u>P</u>	P		C <u>P</u>	P	P	C <u>P</u>			
	Self-storage			C	C	C				C			
	Vehicle repair					C		C					
	Vehicle services		C	C	C	P		P	C				
Recreation and assembly	Arts and recreation		P	P	P	P		P	P	P			
	Convention/reception center			C	C			C	C	C			
	Instruction and training			P	C	P	P	P		C			
	Outdoor recreation		C	C	C			C					

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)

	Stadium/theater/auditorium		C	C	C			C	C				
Retail	Gas station		C	C	C	C	C	C	C				
	General retail		P	P	P	P	P	P	P				
	Kiosk, freestanding		P	C	C					P			
	Shopping center/department store		P	C	C			C	P				
	Vehicle sales and rental		C		C			C					
Industrial:													
Manufacturing and production	Assembly					P		P					
	Fabrication					C		C					
	Manufacturing					C		C					
	Mining												
Sales service and	Commercial service and repair					C		C					
	Food and drink preparation					C		C					
	Heavy equipment sales and rental					C		C					
	Office /warehouse flexible space					P		P					
	Research and development					P		P		C			
	Storage yards					C							
	Wholesale and warehouse					P		P					

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)

Transportation	Aircraft transportation												
	Parking facility									C			
	Passenger terminal/station			C	C	C		C	C	C			
	Railroad facility					C							
Waste	Refuse												
	Salvage					C		C					

17.18.030.040**A. General Public Use Regulations:**

1. There shall be no open storage of trash, debris, materials, equipment, goods or inventory, except for the following: those activities specifically allowed in conjunction with an approved use on the premises; temporary displays of products associated with a retail business that are removed daily; outdoor storage of inventory or products such as firewood, water softener salt, landscaping materials, and other building materials in screened areas designated on an approved site plan; and temporary uses consistent with those described in this chapter.
2. All public uses shall be conducted within completely enclosed buildings, unless otherwise allowed in this chapter, except those uses defined to allow outdoor activities and those temporary uses customarily conducted in the outdoors, including Christmas tree lots, firework stands and parking lot sales associated with an approved use on the property. Parking lot sales may not be conducted more than four (4) 1-week periods per year.
3. Public uses in agricultural or residential zones shall be located on a legal lot or parcel with frontage and access to a collector or arterial street, with the following exceptions:
 1. Religious assembly and worship; and
 2. Utility service, ~~not including a major utility facility.~~

B. Specific Regulations By Public Use:

1. Elementary/Secondary Education, University/College, Vocational/Professional: A conditional use permit is not required in the BH-MU Zone when the use is located on a legal lot or parcel with frontage and access to a collector or arterial street. (Ord. 2017-05, 3-7-2017)
2. Utility Service: ~~Minor~~ **Utility facilities** **that** are not considered a primary use ~~and~~ may be allowed in all zones and on all lots or parcels at the discretion of the City Engineer according to section 17.04.240 of this title.

EXHIBIT A(Additions in **bold underline**, deletions in strikethrough)**17.18.030.050 B.12**

Restaurant: ~~The combined site area of restaurant uses shall occupy no more than twenty percent (20%) of the area within any individual P-O Zone area.~~ Drive-through facilities associated with a restaurant use are prohibited in the P-O Zone.

17.18.060 C.4

Utility And Communication:

Energy Conversion: Facilities and land used or intended to be used for the production of energy from natural forces such as wind, water, sunlight, geothermal heat, or biomass to be utilized beyond on site consumption.

Telecommunication Facility: Freestanding buildings, structures and towers primarily intended for transmission or reception of communication signals between and among different points.

Utility Services: Facilities engaged in the transmission, distribution or disposal of electricity, gas, sewer, and water. Activities commonly associated with this use include generating plants, substations, storage tanks, towers, treatment plants, pump stations, and water wells.

~~Major Utility Facility: Facilities that include the following: sewer facilities, other than below grade lines; regional power generation, other than energy conversion; and aboveground facilities on a site exceeding ten thousand (10,000) square feet.~~

~~Minor Utility Facility: Infrastructure for local distribution and service, such as switch boxes, transformer boxes, and underground water and sewer lines, within established rights of way or public utility easements.~~

SOUTH JORDAN CITY PLANNING COMMISSION REPORT

Meeting Date: 3-12-2019

Application: ROCKY MOUNTAIN POWER
SOUTH JORDAN TO DRAPER LINE UPGRADE
CONDITIONAL USE PERMIT

File No.: PLCUP201800742
Applicant: Rocky Mountain Power/Lisa Romney

Submitted By: Greg Schindler, City Planner

Staff Recommendation (Motion Ready):

Approve with Conditions file no. PLCUP201800742 as submitted.

I. CONDITIONAL USE REVIEW:

A use is conditional because it may have unique characteristics that detrimentally affect the zone and therefore are not compatible with other uses in the zone, but could be compatible if certain conditions are required that mitigate the detrimental effect.

To impose a condition, the detrimental effect must be identified and be based on substantial evidence, not simply a suspicion or unfounded concern. Any condition must be the least restrictive method to mitigate the detrimental effect.

II. BACKGROUND:¹

Rocky Mountain Power (RMP) filed a Conditional Use Permit (CUP) application proposing to upgrade an existing power line (transmission line) from 46 kV to 138 kV and to upgrade 29 pole structures (generally referred to as “proposed work” or “proposal”).² The location of the proposal will run from the South Jordan substation located at 10735 South Redwood Road to the Draper substation located at approximately 500 West 12300 South.³ The proposal will follow the same path as the existing lines, generally through and adjacent to the rear, side and sometimes front property lines of lots and parcels.⁴ RMP submitted all the recorded easements that show that it has rights to perform the proposed work at the proposed location. This transmission line has already been upgraded from 46 kV to 138 kV north and south of the area designated on the current CUP application.

¹ All support documents that have been received by staff regarding this application, can be viewed on the South Jordan City website at <http://www.sjc.utah.gov/planning-zoning/rmp-south-jordan-to-draper-line-upgrade/>

² See website documents “RMP-Application” and “138 kV Structure.”

³ See website document “Project Fact Sheet.”

⁴ See website documents “Easement Maps-Stamped by Surveyor” and “Structure Scoping Sheet.”

III. **DETRIMENTAL EFFECTS (as raised by the residents or identified by staff):**⁵

A. *Easements:*

The residents are concerned that the RMP easements are insufficient and/or invalid for RMP to do the proposed work.⁶ Some residents requested mediation from the Office of the Property Rights (Ombudsman) to resolve the easement issue, which was accepted by the Ombudsman.⁷ To date, the outcome of the mediation has yet to be determined.

RMP responded to the residents' concerns by stating that it does have sufficient easements to do the proposed work.⁸ Nonetheless, it is RMP's position that the easement dispute is a dispute between RMP and the residents, not the City. According to RMP, it is outside the scope of the Planning Commission to consider the easement issue. Likewise, RMP believes that the Planning Commission may not condition the CUP on the easement issue.

B. *Electromagnetic Fields:*

The residents are concerned that the proposed work will produce more electrometric fields (EMFs) than the current transmission line. Based on the resident's research, the residents believe that the increase in EMFs will increase health related issues (mainly cancer).⁹

RMP contends that there is not any scientific studies that prove negative health impacts caused by EMFs.¹⁰ RMP submitted documents from the National Cancer Institute (NCI) and the National Institute of Environmental Health Sciences (NIEHS). The NCI studies have stated that no mechanism has been identified by which EMFs, such as power lines, computers, radios or televisions, could cause cancer.¹¹ The NIEHS also states that there is no definitive connection between cancer rates and EMFs.¹² Nonetheless, RMP plans to use "no-cost" measures to reduce EMFs through alternative arrangements and phasing.¹³

C. *Safety and Design:*

The residents are concerned with 'other' safety aspects of the proposed work, including clearances, structure strength, foundation design, power line fires, and stray voltage.¹⁴

RMP provided a letter from Vernon Black, P.E., a registered professional engineer certifying the design of the project meets and/or exceeds all industry and PacifiCorp standards and best practices

⁵ The residents have discussed their concerns during Planning Commission meetings, City Council meeting, City Council work sessions, and individually with elected officials and staff. All comments were uploaded at the website listed above. However, the residents may raise additional concerns at the CUP hearing.

⁶ See generally website documents regarding "Citizen Comment."

⁷ See website document "Official Mediation Letter & Application."

⁸ See website document "Response Letter."

⁹ See generally website document "Citizen Comment"

¹⁰ See website document "Clearance Requirements and EMF Mitigation."

¹¹ See website document "EMF National Cancer Society."

¹² See website document "EMF National Institute of Environmental Health Sciences."

¹³ *Id.*

¹⁴ See website document from Lyman Moulton.

for ensuring public safety.¹⁵ The letter also stated that project design also included adherence to the 2017 National Electrical Safety Code (NESC).¹⁶ RMP also provided information regarding stray voltage.¹⁷ The document references several sources including the Institute of Electrical and Electronics Engineers (IEEE), the U.S. Department of Agriculture (USDA) and the Public Service Commission of Wisconsin. The key statement included in the RMP document states: “Stray voltage is not related to power system faults, and is generally not considered hazardous.”

D. *Property Values:*

The residents are concerned that (1) the proposed work will decrease their property values and/or (2) prohibit new buyers from purchasing their properties because lenders will not lend on properties adjacent to the increased voltage line.¹⁸

RMP responded to the residents’ first concern by submitting a letter from Troy Lunt of Integra Realty Resource, wherein Mr. Lunt provided his opinion that the upgrade in the line from 46 kV to 138 kV, would have “no impact or very nominal impact” on the value of the homes proximate to the line.¹⁹ Mr. Lunt based his opinion on a study he and two co-authors undertook where they analyzed 350,000 homes and 100,000 sales in Salt Lake County that occurred between 2001 and 2014. The Study itself does state that homes “within 50 meters of these lines [138kV] see a 5.1% decrease in value....”²⁰ Further there is a decrease of 2.9 % to a home located 50 to 100 meters.”²¹ Finally that there is no decrease in value to a home within 50 to 100 meters of the 46 kV line but that there is a 2.5% decrease in value for a home located 50 to 100 meters from a 46 kV line.²²

RMP has not responded to the residents’ second concern but this concern was only recently submitted to RMP. It is anticipated that RMP will address this concern at the CUP hearing.

E. *Other Issues - Alternative Routes and Non-Compliance with RMP’s Guidelines:*

The residents have requested that the City demand the “alternative routes” or “scorecards” that RMP considered before submitting their CUP application.²³ The residents are also concerned that RMP has not followed its own policies and guidelines.²⁴

RMP has not formally responded to the City’s request on behalf of the residents, but has informally stated that RMP did not conduct an “alternative route study” and is compliant with applicable policies and guidelines.

¹⁵ See website document “Line Safety and Design Requirements;” see also website document “Horizontal and Vertical Clearance for Wires.”

¹⁶ *Id.*; see also website document “Clearance Requirements and EMF Mitigation.”

¹⁷ See website document “Stray Voltage Explanation.”

¹⁸ See website document from Paula Gordon, Kish North, Dave Kowallis, and Camie Hodlmair.

¹⁹ See website document “Real Estate Impact Letter.”

²⁰ See website document “Real Estate Impact Letter. P 213 under “Results Summary”

²¹ See website document “Real Estate Impact Letter. P 213 under “Results Summary”

²² See website document “Real Estate Impact Letter. P 213 under “Results Summary”

²³ See website documents “02-05-2019 Citizen Comment Jana Fullmer,” “CC 12-04-2018 Citizen Comment Chris Nelson,” and “CC 12-04-2018 Citizen Comment Rynda Clyde.”

²⁴ See website document “PC 10-09-2018 Citizen Comment Jana Fullmer Attachment C.”

STAFF FINDINGS, CONCLUSIONS & RECOMMENDATIONS:

Findings:

- *Easements.* After thorough review, staff agrees that the Planning Commission may not determine the validity of the recorded easements. However, as with any person or entity proposing to do work in the City, the City needs assurances that the person or entity has legal authority to do that work. This case is no different. Even though RMP submitted all the recorded easement documents with an associated location map, the residents have raised concerns that the easements are not sufficient for RMP to perform its proposed work. To resolve this concern, the residents requested that the Ombudsman resolve the easement dispute. Because there is a pending dispute with a body that has statutory authority to address and opine on such disputes (recognizing that the Ombudsman decision is not binding), the pending easement dispute does not give the City assurance that RMP has the proper easements to do its proposed work. Accordingly, if the Planning Commission approves the CUP, staff recommends that the Planning Commission attached the following condition to mitigate the anticipated detrimental effect:

Before RMP commences its proposed work, this conditional use permit is conditioned on:

1. *The Ombudsman finding that the easements are legally sufficient to do the proposed work; or*
 2. *RMP acquiring easements that are legally sufficient to do the proposed work. "Acquiring" may include, among other things, RMP's statutory right of condemnation or through negotiated agreements with the property owners.*
- *EMFs.* Even though both parties have submitted some form of documentation that states their position on the EMF issue, neither party has submitted expert testimony validates their statements. The evidence submitted seems to conflict or is inconclusive. Additionally, there is no federal or state agency that regulates EMFs. Based on the lack of regulation, it is unlikely that EMF may be a detrimental effect that could be upheld in court.
 - *Safety and Design.* Staff recommends the Planning Commission weigh the evidence presented.
 - *Property Values.* Staff recommends that if a devaluation of property is shown to be a valid anticipated detrimental effect, staff proposes the following condition be attached to mitigate that detrimental effect:

Before RMP commences its proposed work, this permit is conditioned on RMP completing appropriate property value analysis and mitigation.

- *Other Issues - Alternative Routes and Non-Compliance with RMP's Guidelines.* The alternative route issue is not an issue that the Planning Commission can consider because it is a legislative issue.

Conclusion:

Based on the application materials and the findings listed above, if substantial evidence is presented at the hearing, the proposal may have at least two reasonably anticipated detrimental effects: (1) sufficient easement scope; and (2) decreased property values. Notwithstanding, any condition imposed must be the least restrictive method to mitigate the detrimental effect.

Recommendation:

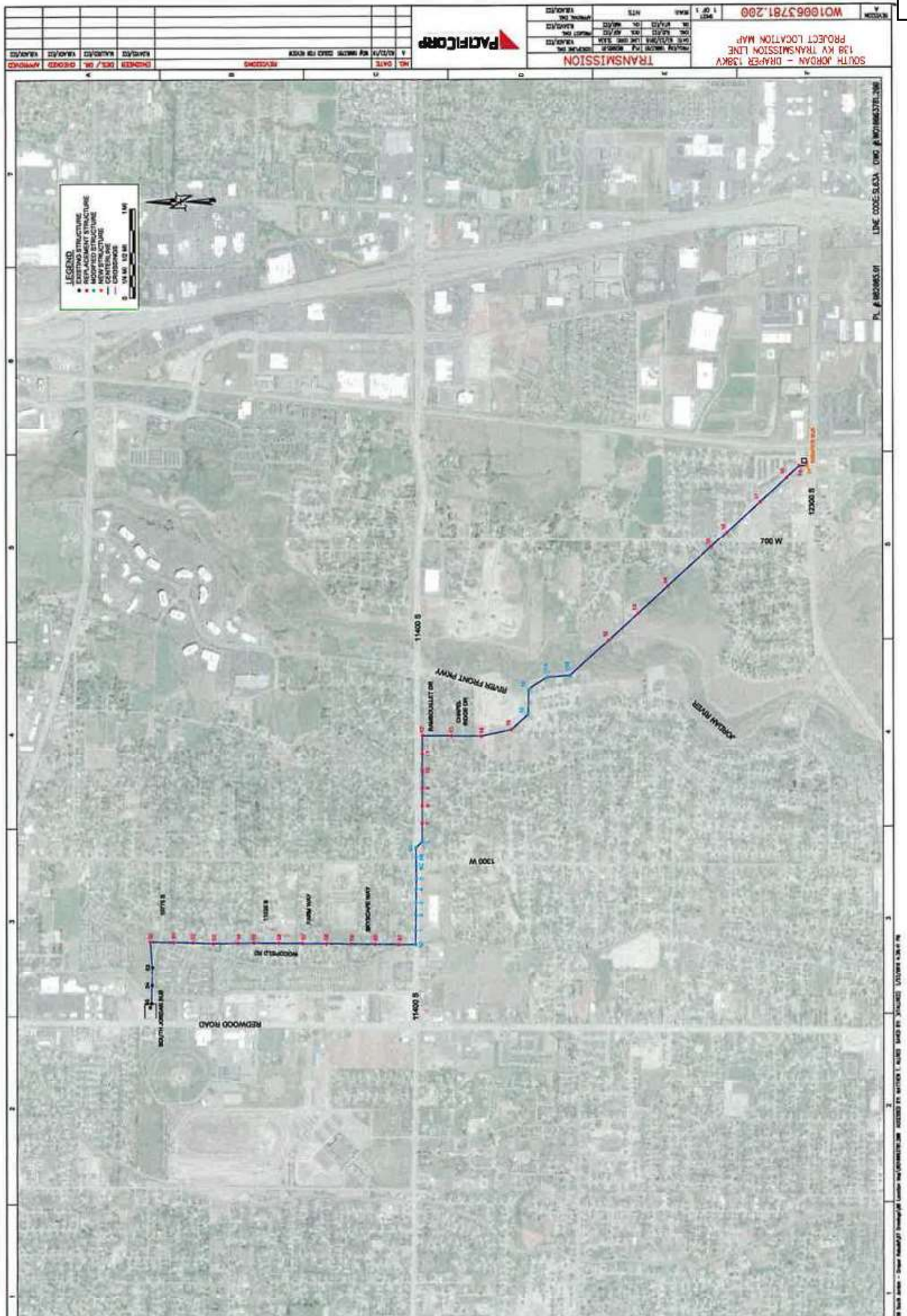
Staff recommends that the Planning Commission take comments at the public hearing and approve (with the conditions stated herein and other necessary conditions) the Conditional Use Permit Application File No. PLCUP201800742 for the installation of an upgraded 138 kV power line and associated replacement power line support structures between the South Jordan power substation located at 10735 South Redwood Road and the Draper power substation located at approximately 500 West 12300 South, unless during the hearing, facts are presented that contradict these findings or new facts are presented, either of which would warrant further investigation by staff.

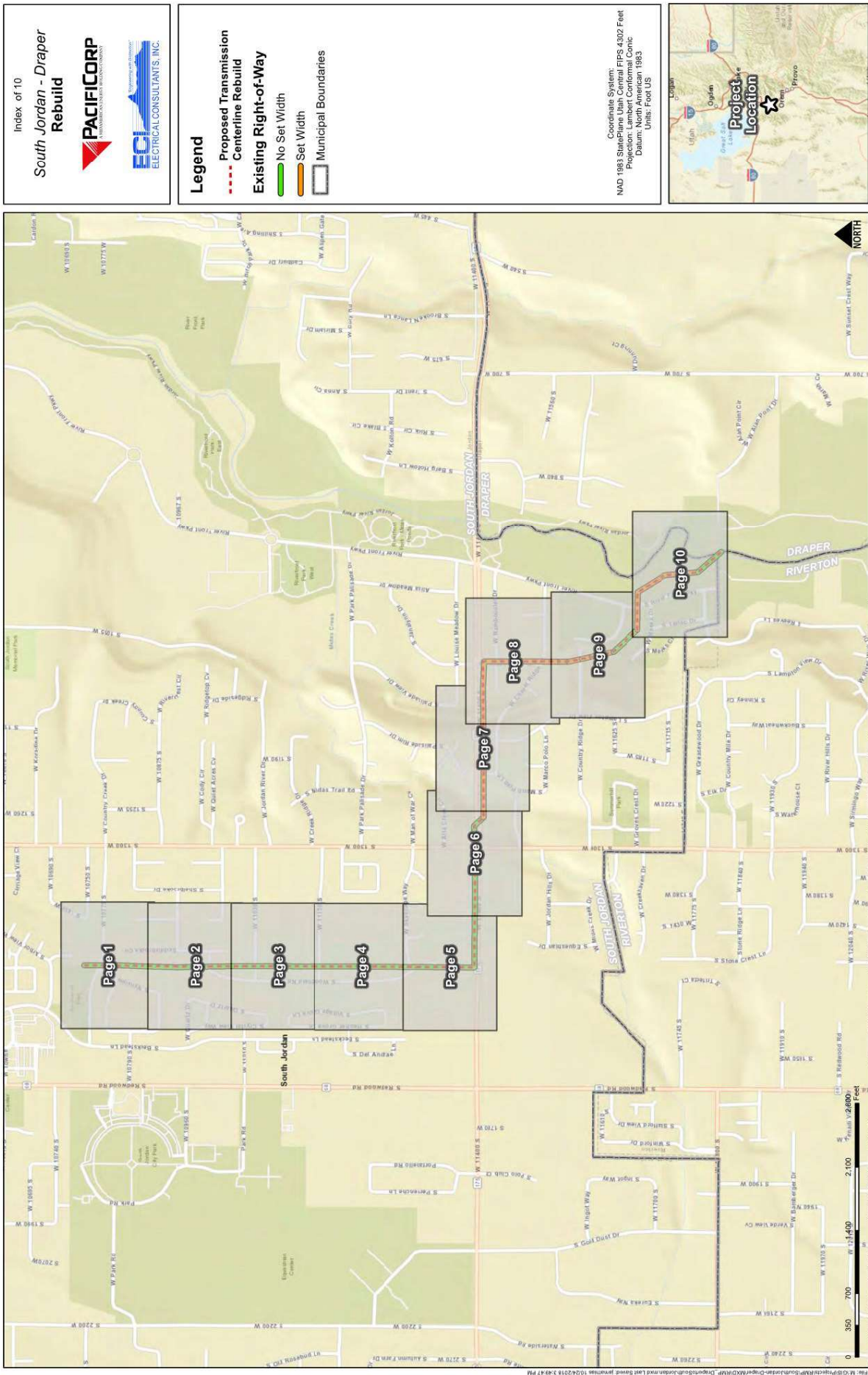
ALTERNATIVES:

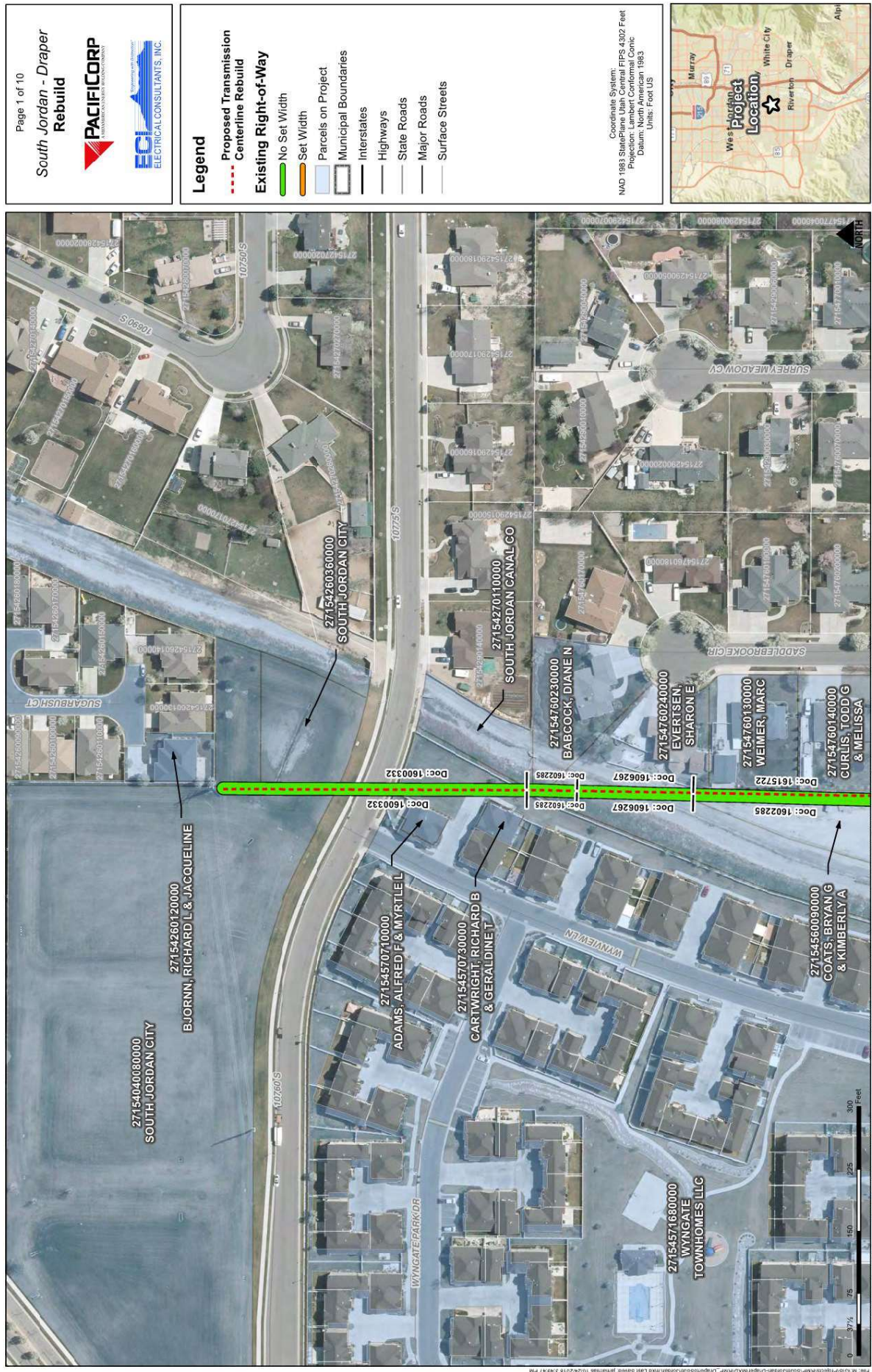
- Deny the Conditional Use Permit.
- Modify the conditions for approval.
- Schedule the decision for a later date not to exceed the allowed timeframe.

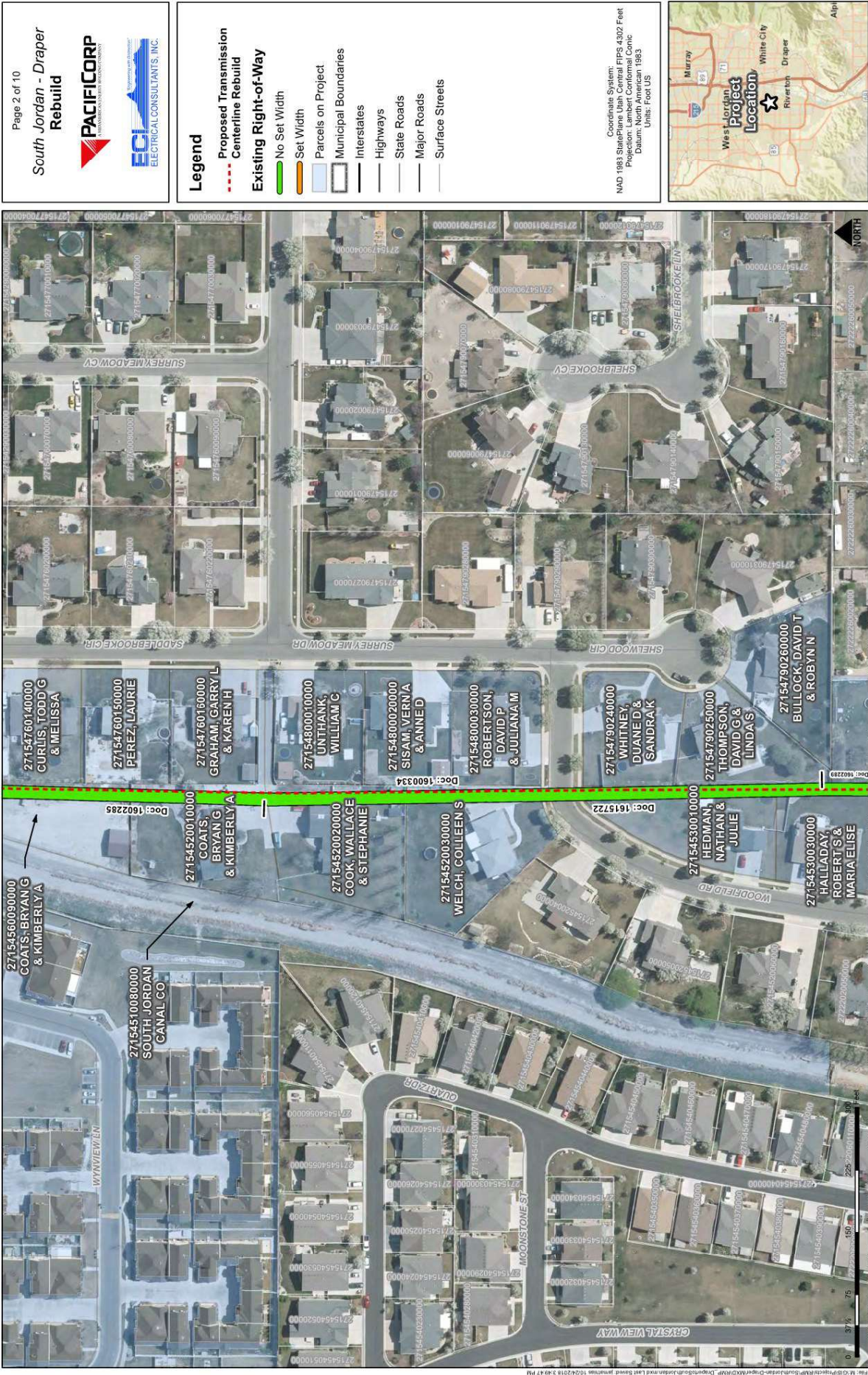
SUPPORT MATERIALS:

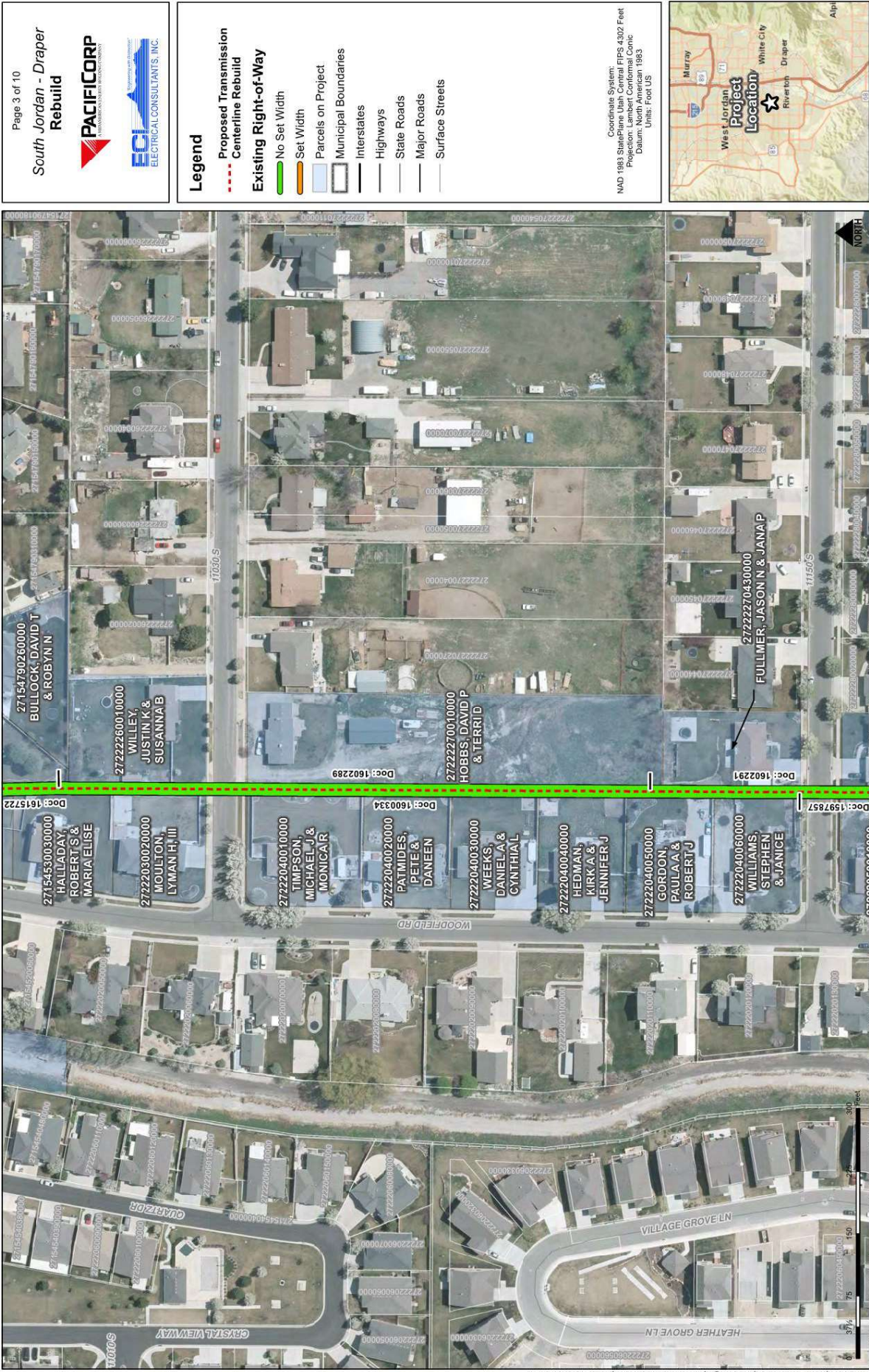
- Location Map
- Easement Location Maps

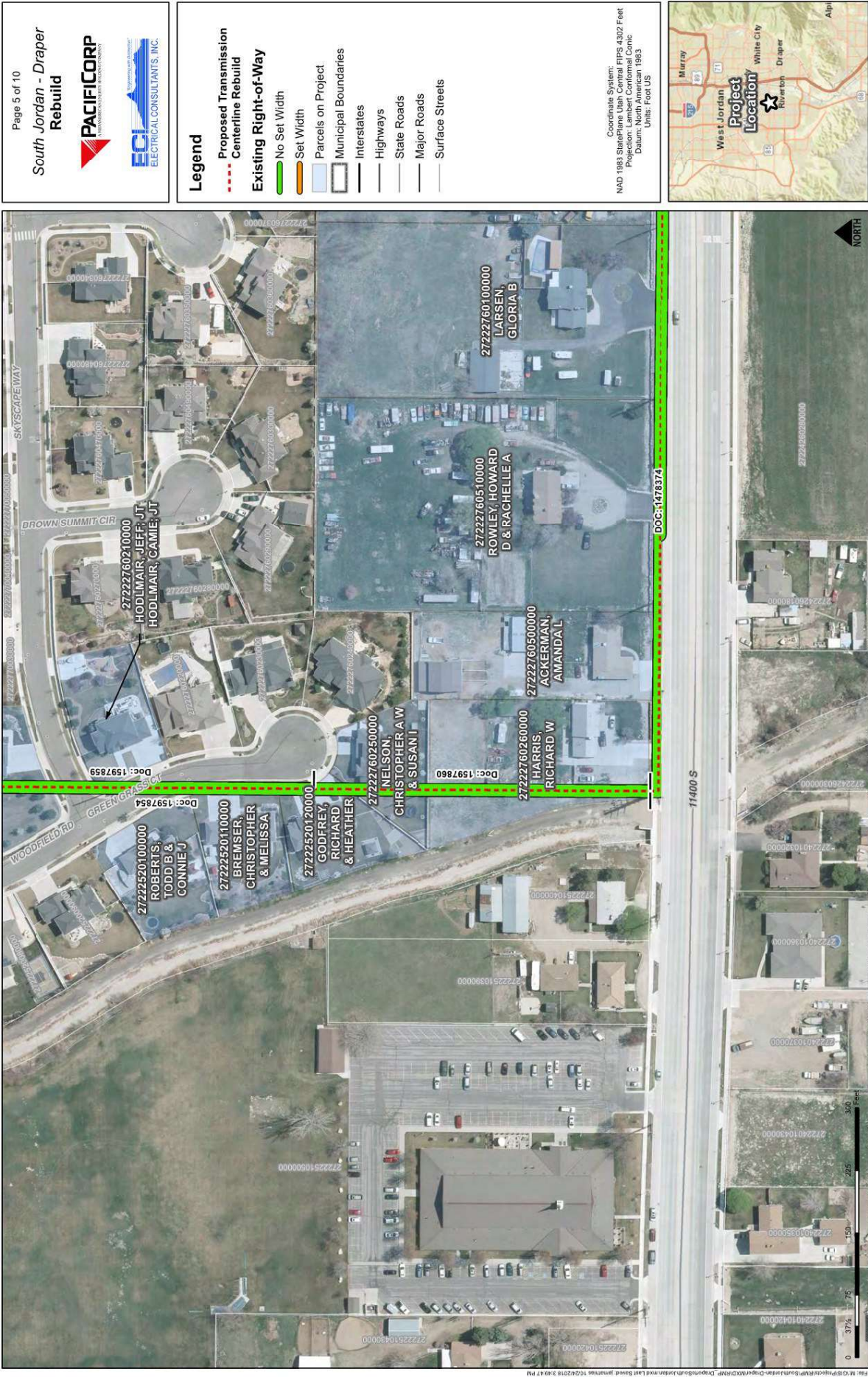


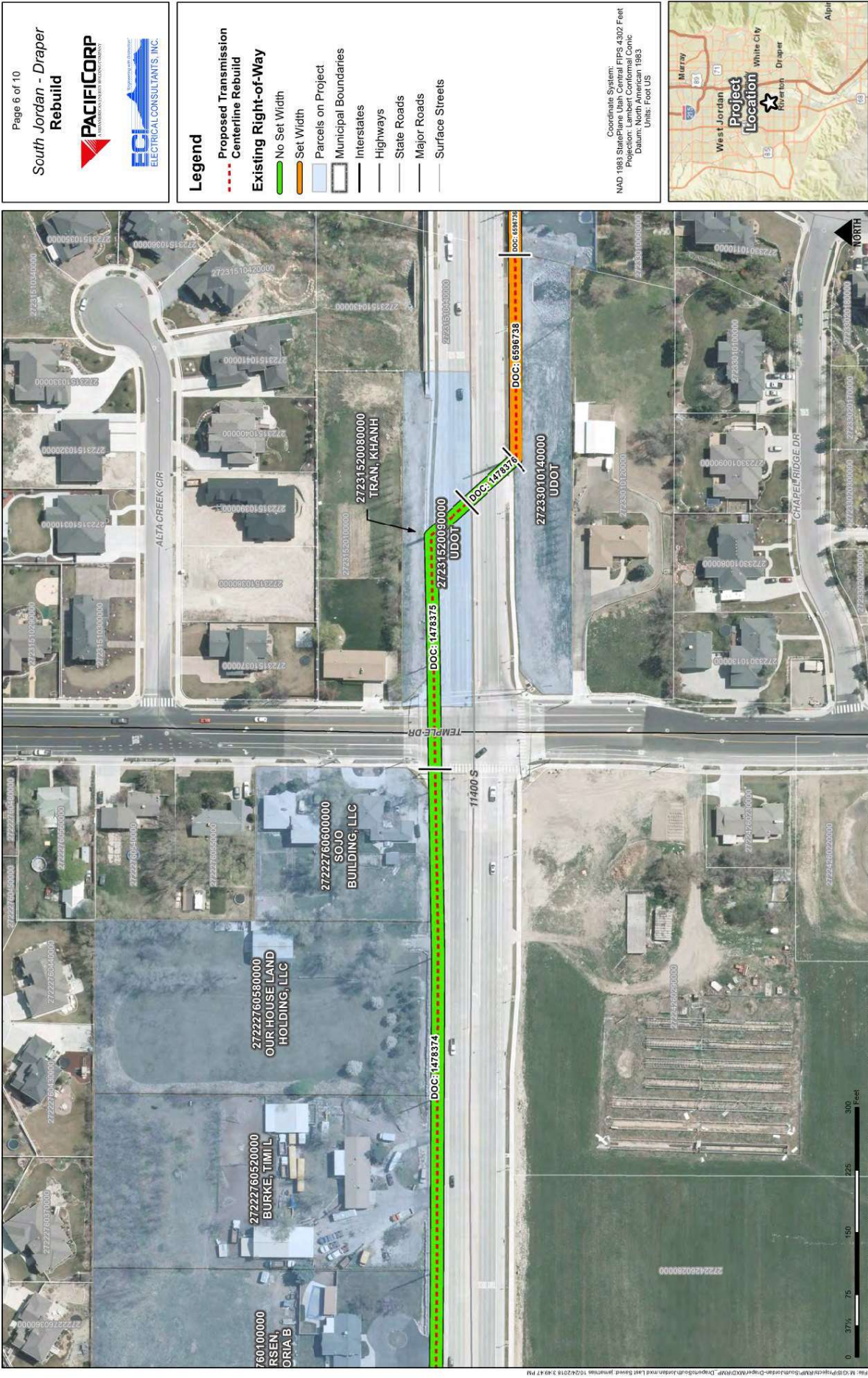


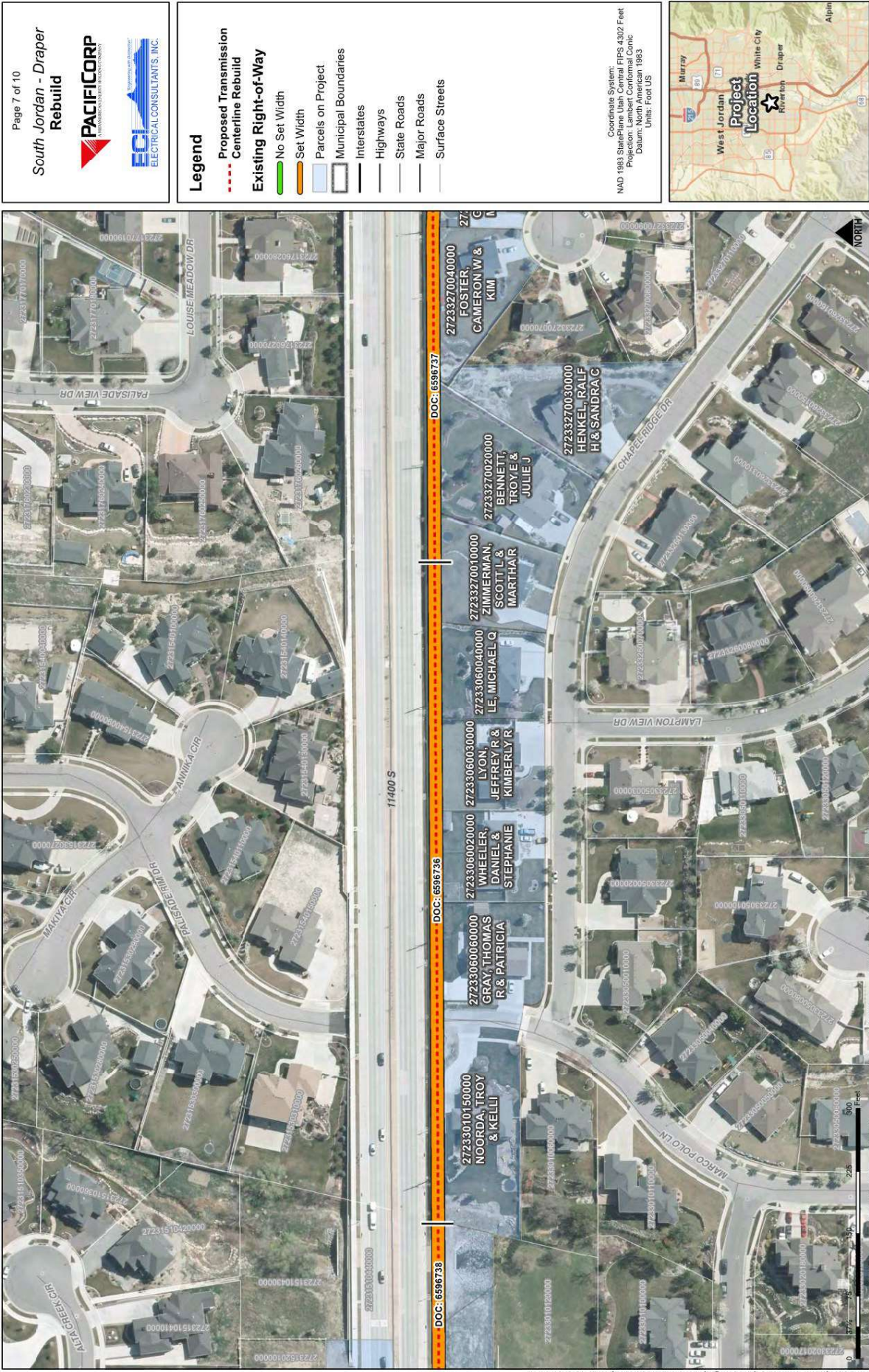












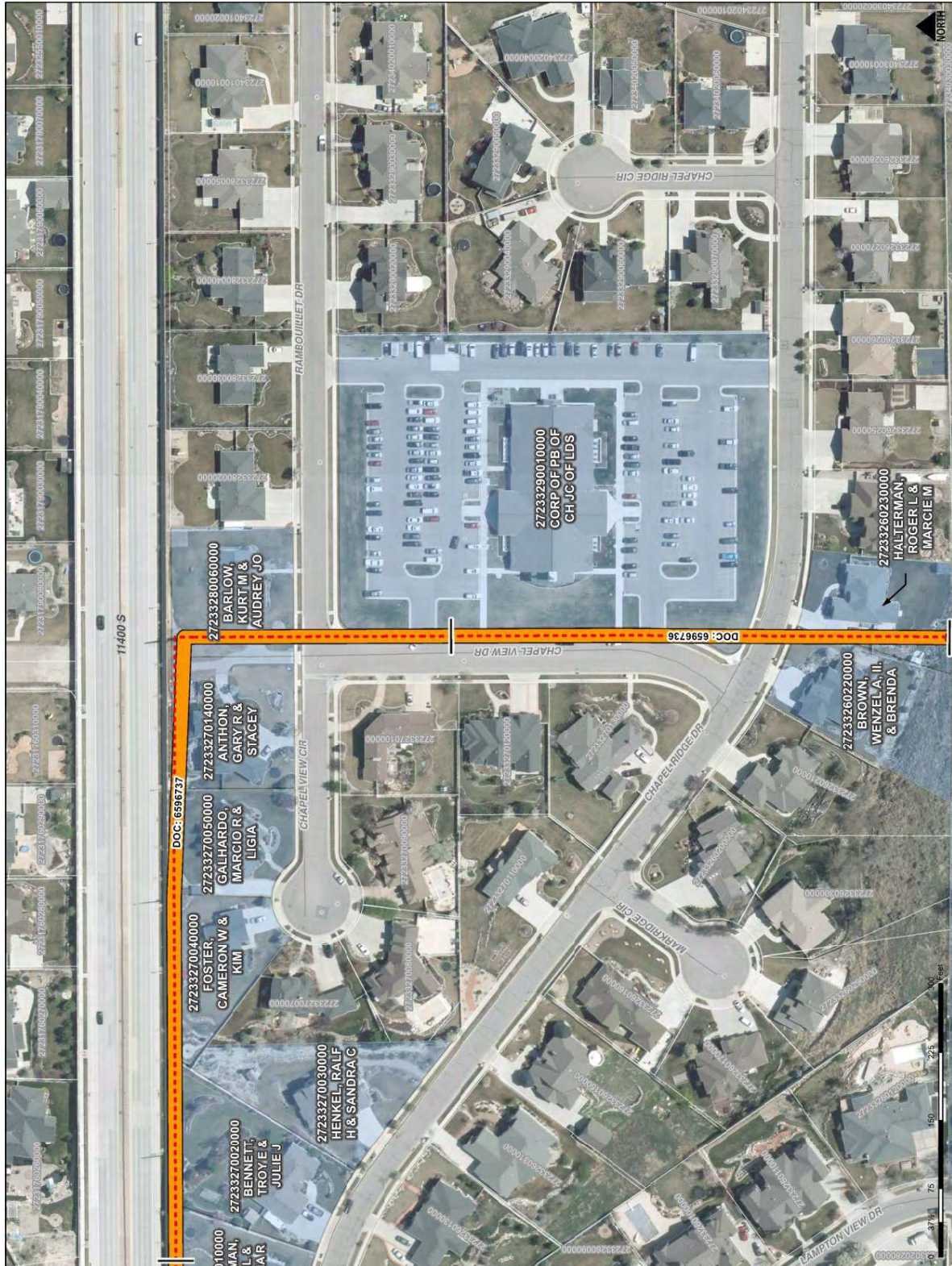
South Jordan - Draper
Rebuild

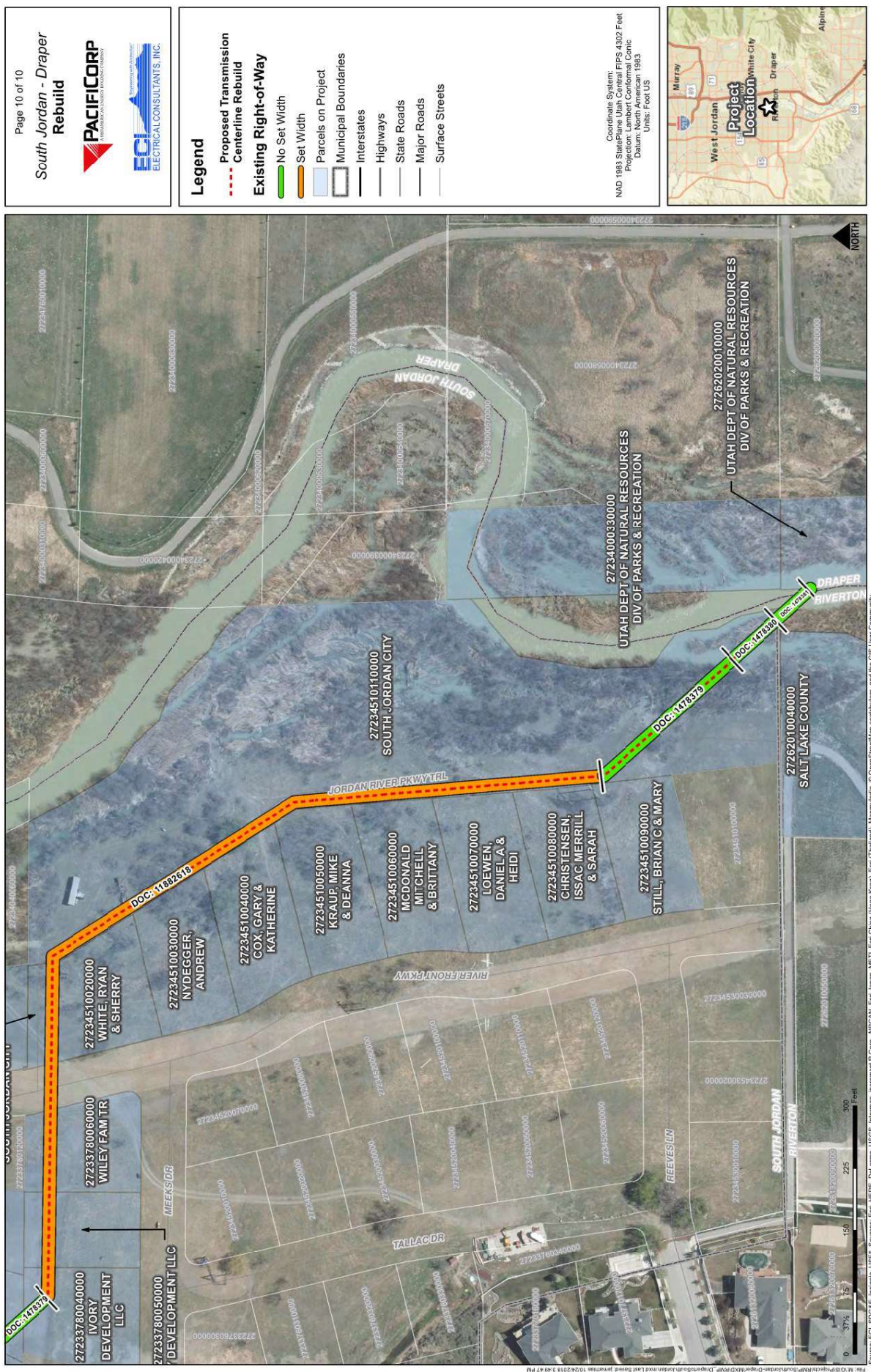


Legend

- Proposed Transmission Centerline Rebuild**
- Existing Right-of-Way**
- No Set Width
Set Width
- Parcels on Project
- Municipal Boundaries
- Interstates
Highways
State Roads
Major Roads
Surface Streets

Coordinate System:
NAD 1983 StatePlane Utah Central FIPS 4302 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Units: Foot US





Commissioner Darby motioned to approve File No. PLCUP202300047, Conditional Use Permit application, without conditions. Chair Hollist seconded the motion. Roll Call Vote was 6-0, unanimous in favor.

I. LEGISLATIVE PUBLIC HEARINGS

I.1. CUP Utilities Text Amendment

Planner David Mann reviewed background information from the Staff Report.

Commissioner Nathan Gedge reviewed the uses that would require permits, asking if a restaurant would include any business selling a food product, or if it had additional requirements like seating on the premises.

Planner Mann responded that typically there would be seating involved, and as noted in the Staff Report it is separate from review of a drive-thru, even it's an accessory use to the business.

Chair Hollist opened the public hearing for comments. There were no comments and the hearing was closed. Chair Hollist noted that the Rocky Mountain Power item was addressed right before she joined the commission, so she didn't hear about or vote on the item. She knows they want to save time and save residents from aggravation when things are legally allowed but those residents think getting enough people against it can stop it. She discussed a communication tower located in the Jordan Ridge Park, from about 15 years ago. She said that was the first time she ever came to a City Council meeting here, and a giant tower was being proposed where the layers would be sublet out to different companies. She doesn't know if the public turnout was what changed the decision on that, but ultimately the neighborhood didn't end up having to give up the basketball court or make exceptions to the offset rules, and something significantly smaller was installed. It appeared that allowing the public to weigh-in did have an impact in that situation.

City Planner Greg Schindler noted that at that time, it could have possibly also been that the code was changed with a limit on the height of the towers. That will never change, and if a company wants a tower to reach that maximum height, they will get that maximum height because of more Federal Regulations limiting what cities can do. Even if the city limits the height, the applicant is allowed to increase that height 10% each time. That has not happened yet here, as they just add more antennas to the existing tower until they are forced to erect a new tower nearby. Again, a site plan still comes to the planning commission for review with a public hearing, but unlike a conditional use permit, they are not discussing conditions of approval. In regards to the tower discussed earlier, it would not be allowed under the current code, and if proposed the applicant would have to apply for a variance.

Assistant City Attorney Greg Simonsen added that this subject was taken to the US Congress, which resulted in The Spectrum Act, and was especially applicable to cell phone towers. The industry basically convinced congress that local entities were taking too much time and giving them too hard of a time, especially allowing the co-location of different arrays on the towers. Ultimately, as indicated on 17.04.240 A8, Communication Towers, that was taken right out of

even city councils' hands. Our City Council enacted an ordinance saying that will be decided by staff, because this is so specialized and heavily regulated. Those tower applications will have to be addressed and approved or denied by staff, as that has to be done within 90 days or it's automatically granted. He recently read the latest FCC ruling interpreting part of the statute, which was 45 pages long, single spaced and small print. In general, this goes back to the discussion at the joint meeting, that there are some areas that where a conditional use permit is required, but they are ultimately deceiving people by implying that there is a chance for the democratic process to stop the application.

Chair Hollist asked if Attorney Simonsen felt that the categories outlined in the amendment are appropriate and represent areas that are defined, to the extent they can be, in our ordinances and appropriate to cease holding public hearings on.

Attorney Simonsen responded that he believes the ones before the commission tonight are, but he also thinks the commission should expect, as well as participate in and encourage the process in choosing the ones they don't want to see anymore or ones that they really want to continue seeing.

Commissioner Steve Catmull said that utilities are highly regulated in terms of noise, well-known harmful effects, etc. In addition, we have excellent staff and a well-functioning City Council, and anything that pops up will be addressed through the code. He just doesn't know what detrimental effects they might find that wouldn't already be covered.

Chair Hollist asked if these restrictions would apply to where easements exist, or if at city staffer can enact eminent domain as they see fit.

Planner Mann shared a few things to be aware of. In that section, where there are specific things crossed off, it does say at the very top that the City Engineer may approve. The City Engineer is the professional that would be familiar with what is necessary, in conversation with the utility companies, to make sure that things are suitable, meet the Federal and State Guidelines, etc. There are also separate chapters dealing with wireless and wind facilities, with specific guidelines laid out for staff to review with those applications. Regarding easements, if it's something where the utility company did need to enlarge an easement, they would have to go through that same process to purchase the property according to the law, and to reimburse the residents based on those laws.

Chair Hollist mentioned a section that mentioned only percentage of an area could be a restaurant zone and asked for more details.

Planner Mann doesn't know why there was a specific percentage noted in the office zone, whether it was due to a concern about restaurants taking over office zones and limiting office construction, but in the C-C zone offices are a permitted use. Offices or restaurants can be built there without any conditional use, but in the office zone for some reason conditional uses are applied to restaurants. He believes there have been enough examples with limited concerns in regards to solely restaurant uses to warrant that additional review with a conditional use.

Commissioner Gedge motioned to forward a recommendation of approval to City Council for the proposed Text Amendment. Chair Hollist seconded the motion. Roll Call Vote was 6-0, unanimous in favor.

Chair Hollist asked if this will be presented in the next City Council Meeting.

Planner Mann said no, they are holding off on taking this to City Council as there are still ongoing discussions between the city and Rocky Mountain Power regarding that project. Once that is finalized completely they can move forward. If any changes need to be made to this amendment, that would be brought back before the planning commission again.

Commissioner Gedge asked how long their recommendation on this will last, as their term ends at the end of the year and he wonders if that would change or end the recommendation with new commissioners potentially joining.

Attorney Simonsen responded that he doesn't know the answer at this time.

Planner Schindler doesn't believe there is an expiration date on recommendations, but he noted there is a CUP for the new substation coming to the commission and he's not sure how that would affect that approval either.

Commissioner Gedge motioned to add an addendum to the motion for File No. PLZTA202300054, that the recommendation of approval from the Planning Commission only stays valid until December 31, 2023, when the current commission's term ends.

Attorney Simonsen noted that he isn't sure of the commission's ability or right to cause their recommendation to expire by a certain date.

Commissioner Gedge withdrew his motion, but noted that it will still be in the minutes for City Council to review.

Planner Mann said this gives staff an opportunity for additional research, and added that staff would probably feel uncomfortable if there were six months to a year between the recommendation and going to the City Council. They would probably look into it before proceeding with the presentation, and the council might also ask for it to be reviewed by the commission again if it has been a while.

J. OTHER BUSINESS

City Planner Greg Schindler said the next meeting currently has two items scheduled, with one of those items potentially being related to the Rise Development.

Commissioner Aaron Starks will be out of the country for the next meeting and unable to attend.

ADJOURNMENT