



MEMORANDUM

DATE: January 28, 2025
For February 13, 2025 Hearing

A handwritten signature in black ink, appearing to read "Koren Manning".

TO: Frank Cassidy
Zoning Examiner

FROM: Koren Manning, Interim Director
Planning & Development Services

**SUBJECT: SPECIAL EXCEPTION LAND USE – PLANNING & AND
DEVELOPMENT SERVICES REPORT
TP-ENT-1024-00024– TEP Perpendicular Crossing – East 36th and
South Kino Parkway Intersection, PAD-15 and R-2, Zoning Examiner Special
Exception Procedure, (Ward 5)**

Issue – This is a Special Exception request by Tucson Electric Power, to allow an above ground perpendicular crossing of electric transmission lines, as permitted in the *Unified Development Code* (UDC). The project site is zoned PAD-15 (Commercial), R-2 (Residential) and is located at the 36th and Kino Parkway intersection (see Location Map). The applicant proposes new above ground transmission lines that will perpendicularly cross the Kino Parkway Gateway Corridor Zone and power poles located outside the subject Gateway Corridor Zone.

Per UDC section 5.5, Transmission lines may be relieved of their requirement to be underground within a Gateway Corridor Zone (GCZ) through the Zoning Examiner Special Exception Procedure. The proposed perpendicular transmission crossings of a Gateway Corridor Zone are pursuant to the criteria listed in UDC 3.4.5 and 4.9.11.A.13 for transmission lines crossing a Gateway Corridor Zone. This special exception request is specific to the perpendicular crossing and does not include the other components of the Midtown Reliability Project specifically the alignment, route or site selection of transmission lines.

Planning & Development Services Recommendation – The Planning & Development Services Department recommends approval of the special exception request, subject to the attached preliminary conditions.

Public Outreach – The project team held an in-person meeting on October 17, 2024 at 6:00 pm. There were attendees from neighborhoods at the meeting. Following the presentation, the project team fielded questions, most of which related to use and potential impacts. As a courtesy review, the applicant presented materials virtually at the Tucson Pima County Historical Commission-Plans Review Subcommittee (PRS) on October 10th and shared neighborhood meetings dates and times.

Applicant's Request – The applicant's special exception request project is to use existing poles for the perpendicular crossing of the Kino and 36th gateway corridor intersection and to seek relief from the required 150-foot setback for the existing poles within and outside of the 150-foot

GZC connected by new transmission lines. The above ground electric transmission power lines will perpendicular cross the 36th and Kino Parkway intersection east to west.

Project Background- On July 10, 2000, the City of Tucson entered into an Electric Distribution and Transmission franchise agreement with Tucson Electric Power (Ordinance 9429). In July 2024, the Arizona Corporation Commission voted to approve a Certificate of Environmental Compatibility (CEC) authorizing Tucson Electric Power's (TEP) Midtown Reliability Project. The CEC was issued by the Arizona Power Plant and Transmission Line Siting Committee. In August 2024, TEP furthered applied for a pre-submittal meeting with PDSD and appropriate staff as required by the Unified Development Code to discuss the special exception process for the perpendicular crossings.

Project Description

The Kino-36th intersection where the Midtown Reliability Project 138 kV line will run east to west along 36th Street and cross over the Kino Parkway gateway corridor zone proposes to use existing poles along 36th Street. These current pole structures are on the south side of 36th Street and are within PAD-15 zone. Once the 138 kV transmission line is in service, the 46 kV structures on the north side of 36th Street (which is residentially-zoned) would be removed or undergrounded. The existing poles range in height between 45 feet and 83.5 feet.

Background Information

Existing Land Use:

The existing area is comprised of roadways, turn in lanes and access drives, sidewalks, bus shelters, right of way and several above and underground utility installations.

Roadway Classifications:

Kino Parkway is classified as a gateway arterial road and 36th is classified as an arterial road per the City of Tucson Major Streets and Routes map.

Current Zoning:

PAD-15: This zone provides for mid-rise development of general commercial uses that serve the community and region, located downtown or in other major activity center areas. Residential and other select agriculture, civic, recreational, and utility uses may also be permitted that provide reasonable compatibility with adjoining residential uses.

Surrounding Zoning and Land Use:

Northwest: R-2 (*Residential Zone*); Public Library

Northeast: R-2 (*Residential Zone*); Single-family Residential

Southwest: PAD-15 (*Commercial Zone*); Vacant, undeveloped

Southeast: PAD-15 (*Commercial Zone*); Existing Utility substation

Previous Cases on Property:

Related Cases: None

Planning Considerations – Land use policy direction for this area is provided by *Plan Tucson*, and the *Kino Area Plan* and *Greater South Park Area Plan*.

Plan Tucson (PT): Plan Tucson Future Growth Scenario Map illustrates different building blocks within the city that have specific policies to promote future growth opportunities. The proposed utility crossing lies within the Existing Neighborhoods of the Future Growth Scenario Map. Existing neighborhoods are primarily developed and largely built-out residential neighborhoods and commercial districts in which minimal new development and redevelopment is expected in the next several decades. The goal is to maintain the character of these neighborhoods, while accommodating some new development and redevelopment and encouraging reinvestment and new services and amenities that contribute further to neighborhood stability.

Relevant Policies:

LT27 Using existing neighborhood, area, and other specific plans as the starting point, undertake an inclusive public process to explore the concept of developing and implementing planning and service areas to coordinate and enhance land use planning, infrastructure improvements, and public service delivery.

PI7 Coordinate with utility companies and other public service providers for the planning of infrastructure, facilities, and services, making sure infrastructure and facility construction is sensitive in design and location to environmental and historic resources.

LT28.1.1 Utilize solutions and strategies included in the Design Guidelines Manual to provide an improved level of community design.

LT28.1.2 Require telecommunications facilities be located, installed, and maintained to minimize visual impact and preserve views. Cabling and fiber optics should be installed underground where possible, and the visual impact of cellular towers should be a prime consideration in the City's acceptance and approval.

LT28.1.3 Improve the appearance of above-ground utilities and structures and extend access to high-tech wireless communications facilities throughout the city.

LT28.2.12 Support environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community.

LT28.2.14 Protect established residential neighborhoods by supporting compatible development, which may include other residential, mixed-use infill and appropriate nonresidential uses.

Applicable Area Plans: *Kino Area Plan* and *Greater South Park Area Plan* establish future land use and development direction for areas that include both the Kino area and the South Park areas. Both area plans convene along and are separated by 36th Street and provide the following plan policies:

Greater South Park Area Plan

As the Tucson region grows and the improvements to Kino Boulevard and State Route 21G are completed, the pressure for change and intensification of uses along these major streets will increase. Generally, these kinds of changes are expected and encouraged as long as the negative impacts of these new developments on surrounding uses can be mitigated.

Utilities

- I. Provide adequate utility service capacity in the plan area by:
- B. planning for additional utility service as the plan area develops.

Transportation Improvements and Traffic Circulation

- I. Upgrade the appearance of the built environment along Kino Boulevard by utilizing the Gateway guidelines as specified in the Major Streets and Routes Plan or a Gateway Route ordinance, when adopted.

The subject area is within subarea 5 of the area plan and divided by Kino Boulevard. Due to improved access, central location, and availability of utilities, the vacant land in this subarea has the potential for the development of a combination of residential, commercial, and industrial uses. The proposed crossing location is zoned PAD-15 to the south.

Kino Area Plan

The subject area is within site 1 commercial of the area plan and divided by Kino Boulevard.

Residential Impacts

By locating outside the GCZ and utilizing existing power poles, the proposed transmission lines will no longer abut residential structures north of 36th street and will then be located in PAD-15 commercial zoning to the south. Additionally, the proposed location on the transmission poles does not impact the existing transit stop, pedestrian connectivity and access and existing landscaping.

Commercial Impacts

The proposed transmission lines south of 36th Street will abut an existing, commercial building and a multi-use path. The positioning of the westerly transmission pole is located approximately 300 feet from the intersection and should have minimal impact on the intersection and the future commercial development..

UDC Use- Specific Standards

As generally discussed at the pre-submittal meeting, *Section 3.4.5.A.1-5* of the UDC requires that Zoning Examiner grant a special exception only after finding that the requested special exception meets the required findings:

The proposal generally complies with applicable codes and regulations and generally does not adversely affect the adjacent land use or surrounding neighborhoods subject to the preliminary conditions. The proposal also generally does not have an impact on vehicle parking and

pedestrian circulation. The proposal generally can be adequately and efficiently accessed by public facilities and services and is within the right-of-way.

Use Specific Standards

Otherwise, in addition to the required findings of UDC section 3.4.5, the special exception request must meet more than one criterion listed in Section 4.9.11.A.13 in subsections (a) through (h) below (*italic* are the Applicant's responses):

4.9.11.A.13.a - The proposed overhead transmission lines are contextually sensitive to adjacent and surrounding zoning and land uses. Examples of this may include a proposed location that is industrially zoned or a proposal that results in a less adverse aesthetic impact or less adverse impact on viewsheds for surrounding properties.

This special exception criterion is applicable to the Subject Crossing because co-locating the new transmission line on the existing infrastructure at the Subject Crossing would result in minimal change in the viewshed for surrounding properties. Co-locating on the existing infrastructure ensures no new poles would be added at the Subject Crossing which means less visual and aesthetic impacts for motorists and pedestrians. Additionally, existing lines that cross Kino Parkway on the north side of 36th Street will be retired or placed underground further reducing visual impacts at the crossing.

4.9.11.A.13.b: Requiring underground construction would cause a significant increase in ground disturbance when compared to overhead construction in sensitive areas such as Environmental Resource Zone (ERZ) or Watercourse Amenities, Safety and Habitat (WASH) wash crossings or environmentally and archeologically sensitive areas.

This special exception criterion is not applicable because the Subject Crossing is not within an ERZ, WASH crossing, environmentally sensitive area, or an archaeological sensitivity zone.

4.9.11.A.13.c: The proposed overhead transmission line will have minimal impact on residential areas:

This special exception criterion is applicable to the Subject Crossing because the planned transmission line that would be co-located on existing infrastructure at the Subject Crossing is within PAD zoning and does not enter the residential zoning in the northern portion of the Subject Crossing. Residences to the north of the Subject Crossing would experience minimal visual change in their viewshed with the new transmission line co-located on the existing infrastructure. Additionally, once the new transmission line is in-service, the 46 kV sub-transmission line that is on the north side of 36th Street will be undergrounded or removed as part of the transition from the current 46 kV system to a 138 kV system. As a result, the viewshed from the residences to the north of the Subject Crossing will be cleaner than it currently is. Not only would the new transmission line

minimally impact the residences, but the clean-up from the 46 kV system would result in a positive visual impact to the residences.

4.9.11.A.13.d: The proposed overhead transmission lines are located on non-Gateway or non-Scenic corridor routes, and the relief is requested for a segment that perpendicularly crosses a Gateway Corridor Zone or Scenic Corridor Zone, and the placement of poles is set back at least 150 feet from the curblineline of the designated Gateway or Scenic Corridor.

This special exception criterion is not applicable to the Subject Crossing because the new transmission line is planned to be co-located on existing infrastructure at the Subject Crossing. The existing infrastructure at the Subject Crossing is not 150' setback from the curblineline of Kino Parkway (the Gateway corridor). Therefore, this Subject Crossing does not satisfy the requirements of criterion d.

4.9.11.A.13.e: The proposed overhead transmission lines are for a repair or upgrade of existing facilities and the proposed facilities are similar in size and scale to the existing facilities being repaired or replaced. Replacement facilities may not be any larger than 10% the height or width of existing facilities being replaced.

This special exception criterion is **applicable** to the Subject Crossing because the new transmission line will be co-located on existing poles designed to accommodate a second circuit, which will result in zero increase to the height or width of the existing facilities.

4.9.11.A.13.f: The transmission lines are proposed in an area where there is an existing presence of railroad, highway and/or bridge crossings, or in an area where underground installation would interfere with other existing undergrounded utilities, and curing that interference is technologically impossible or financially cost prohibitive.

This special exception criterion is not applicable to the Subject Crossing as there are no railroads, highways, and/or bridge crossings at the intersection.

4.9.11.A.13.g: The proposed transmission lines will provide electrical service to critical customers where overhead lines are strongly recommended for specialized operations; examples include but are not limited to: provision of electricity to Davis Monahan AFB or other installations necessary to the national defense.

This special exception criterion is applicable because the planned transmission line will provide electrical service to critical customers, including but not limited to, the University of Arizona and Banner – University Medical Center. Banner requires reliable power to run the equipment used in its level 1 trauma center. The looped 138 kV overhead transmission line will improve reliability over the existing overhead 46kV radial lines currently serving the hospital.

In the same fashion, the university will also receive more reliable power. It's important to keep the university powered for the safety of both the students attending and for the staff. In addition, the university is one of the largest employers in the City of Tucson. Keeping

the university powered ensures a key economic driver for the City remains active and productive. This supports the Jobs and Workforce Development Policy 6 and the Business Climate Policies 1 & 7 of Plan Tucson's Chapter 3: The Economic Environment (2013). Although the updated Plan Tucson hasn't been ratified yet, supporting the University also contributes to the economic developments goals outlined in draft Chapter 3: Values, Goals, and Policies Goal 6: Education policy 6 and Goal 12: Economy policy 7 & 12 (2025).

4.9.11.A.13.h: The proposed project is in an area where costs to install underground would have a disparate impact on low-income residents.

This special exception criterion applies to the Subject Crossing. The census tract that the Subject Crossing overlaps with has a median income that is lower than both the Ward's median income and Pima County's median income (see Appendix H). The cost of installing electric infrastructure is passed onto all TEP customers. An increase in customers' electric bills has an impact on all households, and lower-income households will be disproportionately impacted by a higher monthly electric bill.

If an underground solution, versus an overhead solution, were to be implemented at this intersection, there would be a disparate impact on low-income residents from both the increased financial burden of a higher monthly electric bill and physical impacts from undergrounding a transmission line. These impacts are:

- increased installation costs
- increased noise
- increased air pollution
- major ground disturbance with greater potential for underground utility conflicts, and
- traffic detours/delays

An overhead line is less costly to build than an underground transmission line. An overhead transmission line would result in minimal ground disturbance and fewer total days of construction. This lessens impacts from:

- noise
- air pollution
- potential underground utility conflicts, and
- traffic detours/delays

For those reasons, an underground transmission line at the Subject Crossing would have a disparate impact on low-income residents, and an overhead line is the best solution for the surrounding businesses and neighborhoods.

Conclusion – The proposed special exception waiver is consistent with *Plan Tucson*, *Kino Area Plan* and *Greater South Park Area Plan* and in compliance with applicable criteria of UDC Sections 3.4.5, and 4.9.11.A.13. a-h subject to compliance with the attached preliminary conditions, approval of the special exception land use in the PAD-15 zone is appropriate.

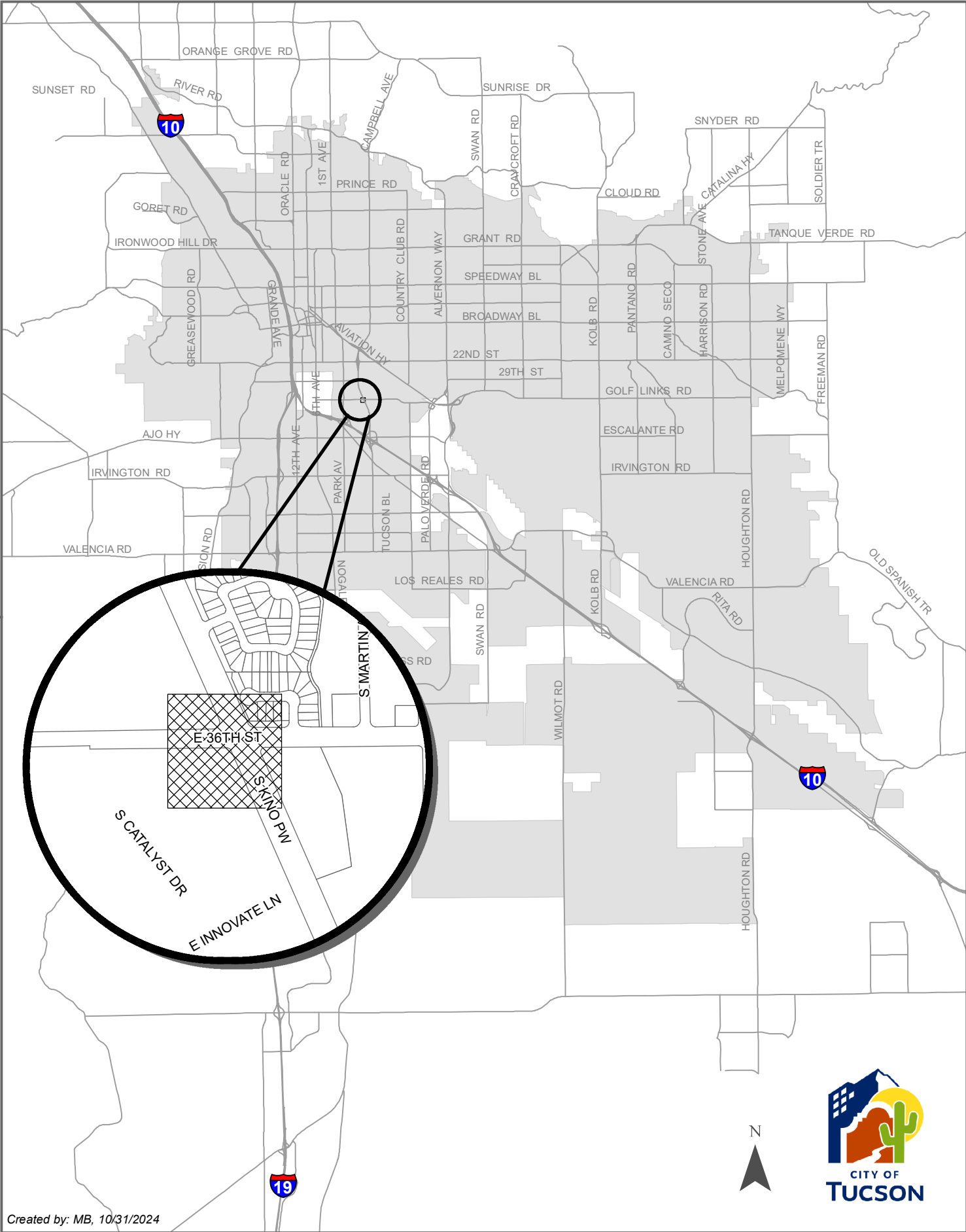
TP-ENT-1024-00024 – Perpendicular Crossing – Kino Parkway and East 36th, PAD, Special Exception (Ward 5)
Preliminary Conditions

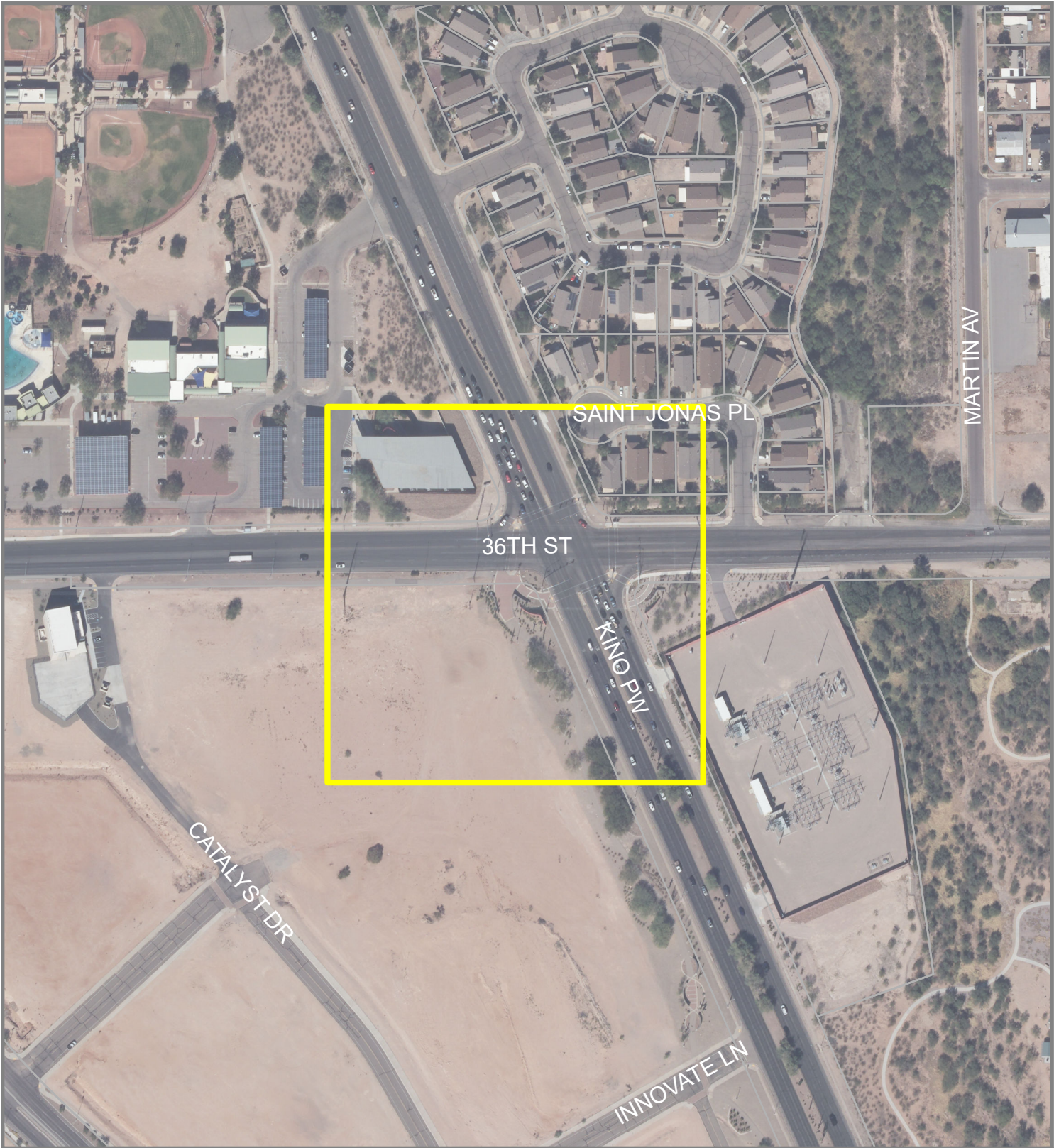
PROCEDURAL

1. A development package in substantial compliance with the revised preliminary development plan, and required reports, dated January 24, 2025, is to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled “Agreement to Waive Any Claims Against the City for Zoning Amendment”. The fully executed Waiver must be received by the Planning & Development Services Department (PDSD) before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains, and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of the special exception.

Land Use and Compatibility

6. Applicant to use existing Transmission pole structures as identified on PDP.
7. Subsurface installation will require a submittal to RWRD utility coordination.
8. TEP to notify PDSD of any route or pole placement changes prior to submitting for right-of-way permit with DTM.
9. TEP will be required to remove or underground the 46 kV structures/lines along the north side of 36th Street once the 138 kV transmission line is in service. TEP to coordinate and work with both PDSD and DTM on meeting this condition.



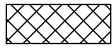
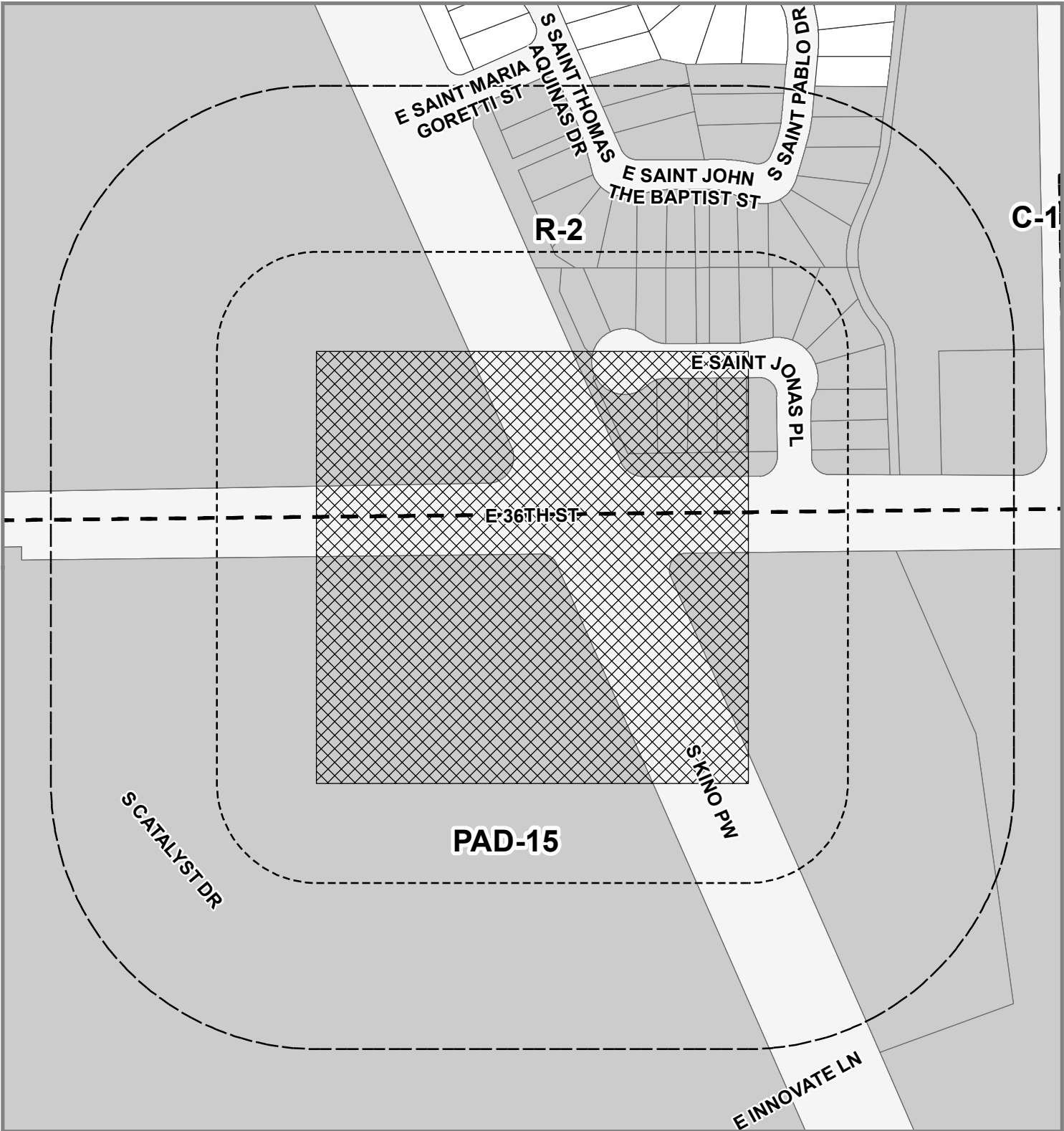


Address:
Base Maps: Twp. 14S Range 14E Sec. 30
Ward: 5



0 110 220 Feet
1 inch = 235.808266 feet





Area of Special Exception Request



Protest Area (150 ft. Radius)



Notification Area (400 ft. Radius)



Properties Notified



Zone Boundaries

Address:

Base Maps: Twp. 14S Range 14E Sec. 30

Ward: 5



0 100 200 Feet

1 inch = 207.14 feet

N

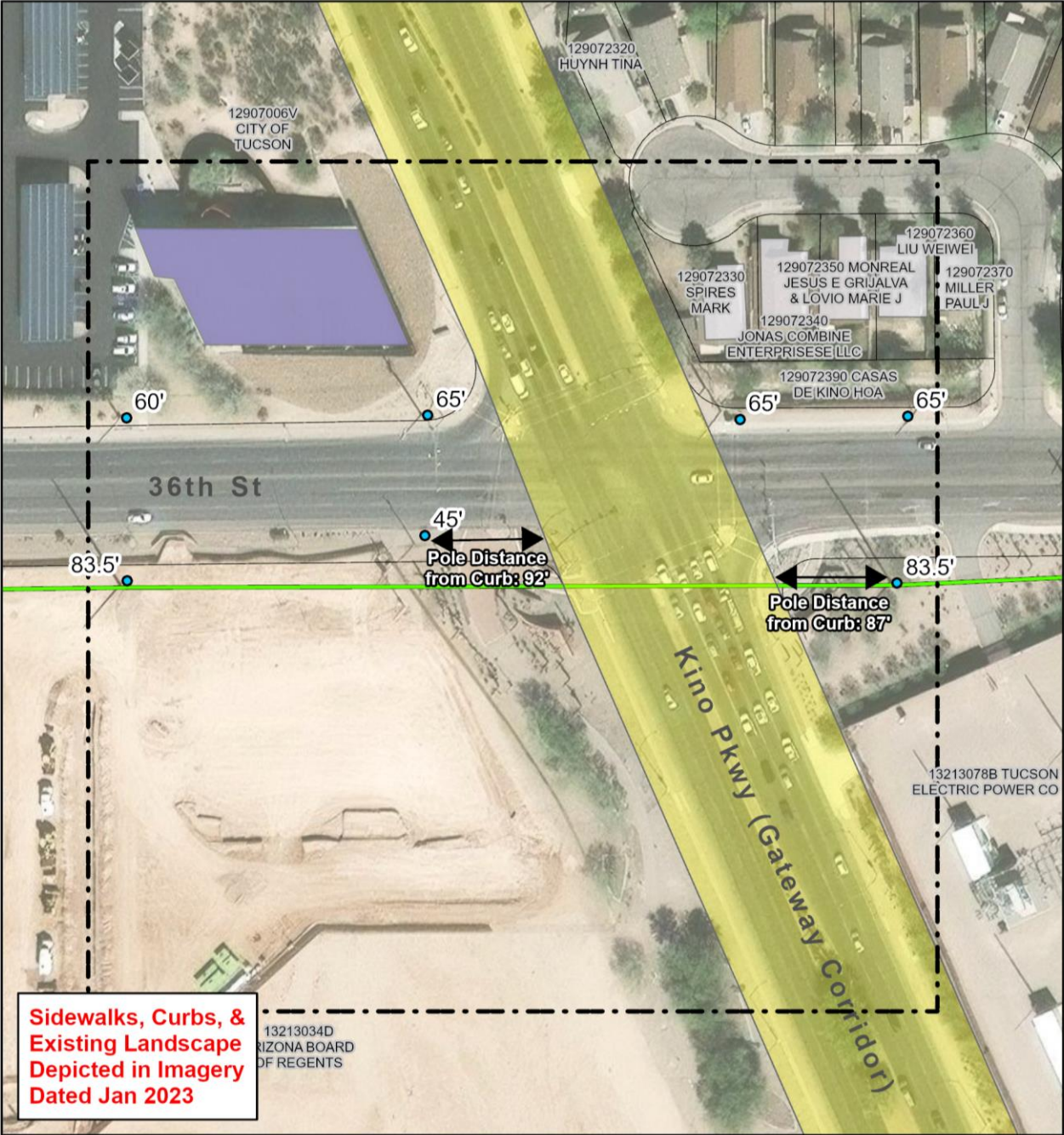


SPECIAL EXCEPTION

Preliminary Development Plan

TP-ENT- 1024-00024 Date 1-24-2025

Planning & Development Services



● Existing Poles

— Future Transmission Line

Building Height

10' - 15'

21' - 25'

Subject Crossing

Gateway Corridor

Parcels

Sources: Esri, UNS, TEP, and Pima County GIS.

Projection: NAD 1983 UTM Zone 12 N

Basemap: ESRI World Imagery

This map is for planning purposes only.

TEP makes no warranty of its accuracy.

0 62½ 125

Feet

1 Inch = 125 Feet

↑

N



Approval – Protest Form

If you wish to submit a written protest or approval, this form is provided for your convenience. Print your comments below, sign your name, and mail to the City of Tucson Planning and Development Services Department, Entitlements Section, 201 N. Stone Avenue, P.O. Box 27210, Tucson, Arizona 85726-7210. The number of approvals and protests along with protest calculations will be reported at the Zoning Examiner's public hearing. This form is not the City of Tucson Public Hearing Notice.

Protests from 20% of the property owners within 150' of the whole perimeter of the property being rezoned, including BOTH 20% of the property by area and 20% of the number of lots with 150', require an affirmative vote of $\frac{3}{4}$ of the Mayor and Council (5 of 7 council members) to approve the rezoning or special Exception ordinance. Public rights-of-way and the area/lot of the proposed rezoning are included in the protest calculations. Calculations will be provided to the Mayor and Council.

Case: TP-ENT-1024-00024 Perpendicular Crossing – East 36th and South Kino Parkway Intersection, PAD and R-2, Zoning Examiner Special Exception Procedure, (Ward 5)

Property Owner(s) (PLEASE PRINT)

- ☐ APPROVE the proposed rezoning/special exception
☐ PROTEST the proposed rezoning/special exception

Reason(s):

PLEASE PRINT YOUR NAME	PLEASE PRINT PROPERTY ADDRESS	PLEASE PRINT MAILING ADDRESS

Date _____

Place
Stamp
Here

City of Tucson
Planning and Development Services Department
Entitlements Section
201 N. Stone
P.O. Box 27210
Tucson, Arizona 85726-7210

TP-ENT-1024-00024 JB

Expose this flap - Affix stamp and return



City of Tucson
Planning and Development Services
Department - Entitlements Section
201 N. Stone Avenue
P.O. BOX 27210
Tucson, Arizona 85726-7210

IMPORTANT LAND USE CHANGE NOTICE ENCLOSED