

# **SOUTH JORDAN CITY PLANNING COMMISSION REPORT**

**Meeting Date: 4/11/2023**

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**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

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## **Proposed Motion:**

Recommend to the City Council that it approve the proposed text amendment.

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## **BACKGROUND:**

South Jordan City has filed an application to amend sections in Title 17 of the South Jordan City Municipal Code regarding public utility and restaurant uses. Applications previously reviewed by staff that pertained to the subject uses have, in Staff's opinion, been subject to unnecessary scrutiny by the public and limited options for revision. Staff hopes this proposal will start a discourse around conditional uses and how they are designated and reviewed in the future.

## **ANALYSIS:**

In 2018, a conditional use permit (CUP) application was submitted by Rocky Mountain Power for a transmission line upgrade that ran through South Jordan. The location of the line was within recorded easements and would not be relocated. 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 Staff and the Planning Commission, which led to extensive review of the project over many months. Ultimately, the Planning Commission approved the CUP due to the lack of evidence that the resident's concerns could be legally considered detrimental effects.

Staff has proposed changing the designation for the "Utility Services" use from conditional to permitted and removing definitions for major and minor facilities. Public utility companies are still required to consult with the City Engineer regarding any new or upgraded service lines or facilities.

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 projects in commercial areas, Staff has found little to no evidence of detrimental impacts in the identified zones that would warrant further scrutiny. The South Jordan City Municipal Code contains regulations that limit the impact a restaurant use would have on surrounding properties. Drive through facilities will continue to be identified as a conditional use and will be reviewed as such for all future projects.

## **STAFF FINDINGS & CONCLUSIONS:**

### **Facts & Findings:**

- The 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 in order to convert some conditional uses to permitted uses, as outlined in the attached draft, due to a lack of detrimental effects on surrounding properties.

### **Conclusions:**

- The proposed text amendment will provide more flexibility in the application and approval for public utility and restaurant uses.

## **FISCAL IMPACT:**

None.

## **ALTERNATIVES:**

- Recommend approval of text amendment with changes.
- Recommend denial of text amendment.

## **SUPPORT MATERIALS:**

- Draft of proposed text amendment
- Planning Commission packet for file #PLCUP201800742

## 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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[illegible]

		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
		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	<del>C</del> P		<del>C</del> P	<del>C</del> P	<del>C</del> P	<del>C</del> P	<del>C</del> P		<del>C</del> P	<del>C</del> P	<del>C</del> P	<del>C</del> 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	<del>G</del> P	P		<del>G</del> P	P	P	<del>G</del> 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				

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
	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								

Category	Uses	Zones											
		A-5 A-1	BH - MU	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												
										C			
				C	C	C		C	C	C			
						C							
	Waste												
						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-u~~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.~~

# **SOUTH JORDAN CITY PLANNING COMMISSION REPORT**

Meeting Date: 3-12-2019

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**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

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## **Staff Recommendation (Motion Ready):**

**Approve with Conditions** file no. PLCUP201800742 as submitted.

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## **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.

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## **II.    BACKGROUND:<sup>1</sup>**

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”).<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.

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<sup>1</sup> 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/>

<sup>2</sup> See website documents “RMP-Application” and “138 kV Structure.”

<sup>3</sup> See website document “Project Fact Sheet.”

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

### III. **DETRIMENTAL EFFECTS (as raised by the residents or identified by staff.):**<sup>5</sup>

#### A. *Easements:*

The residents are concerned that the RMP easements are insufficient and/or invalid for RMP to do the proposed work.<sup>6</sup> Some residents requested mediation from the Office of the Property Rights (Ombudsman) to resolve the easement issue, which was accepted by the Ombudsman.<sup>7</sup> 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.<sup>8</sup> 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).<sup>9</sup>

RMP contends that there is not any scientific studies that prove negative health impacts caused by EMFs.<sup>10</sup> 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.<sup>11</sup> The NIEHS also states that there is no definitive connection between cancer rates and EMFs.<sup>12</sup> Nonetheless, RMP plans to use "no-cost" measures to reduce EMFs through alternative arrangements and phasing.<sup>13</sup>

#### 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.<sup>14</sup>

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

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<sup>5</sup> 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.

<sup>6</sup> See generally website documents regarding "Citizen Comment."

<sup>7</sup> See website document "Official Mediation Letter & Application."

<sup>8</sup> See website document "Response Letter."

<sup>9</sup> See generally website document "Citizen Comment"

<sup>10</sup> See website document "Clearance Requirements and EMF Mitigation."

<sup>11</sup> See website document "EMF National Cancer Society."

<sup>12</sup> See website document "EMF National Institute of Environmental Health Sciences."

<sup>13</sup> *Id.*

<sup>14</sup> See website document from Lyman Moulton.

for ensuring public safety.<sup>15</sup> The letter also stated that project design also included adherence to the 2017 National Electrical Safety Code (NESC).<sup>16</sup> RMP also provided information regarding stray voltage.<sup>17</sup> 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.<sup>18</sup>

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.<sup>19</sup> 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....”<sup>20</sup> Further there is a decrease of 2.9 % to a home located 50 to 100 meters.”<sup>21</sup> 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.<sup>22</sup>

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.<sup>23</sup> The residents are also concerned that RMP has not followed its own policies and guidelines.<sup>24</sup>

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.

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

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

<sup>17</sup> See website document “Stray Voltage Explanation.”

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

<sup>19</sup> See website document “Real Estate Impact Letter.”

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

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

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

<sup>23</sup> 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.”

<sup>24</sup> 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



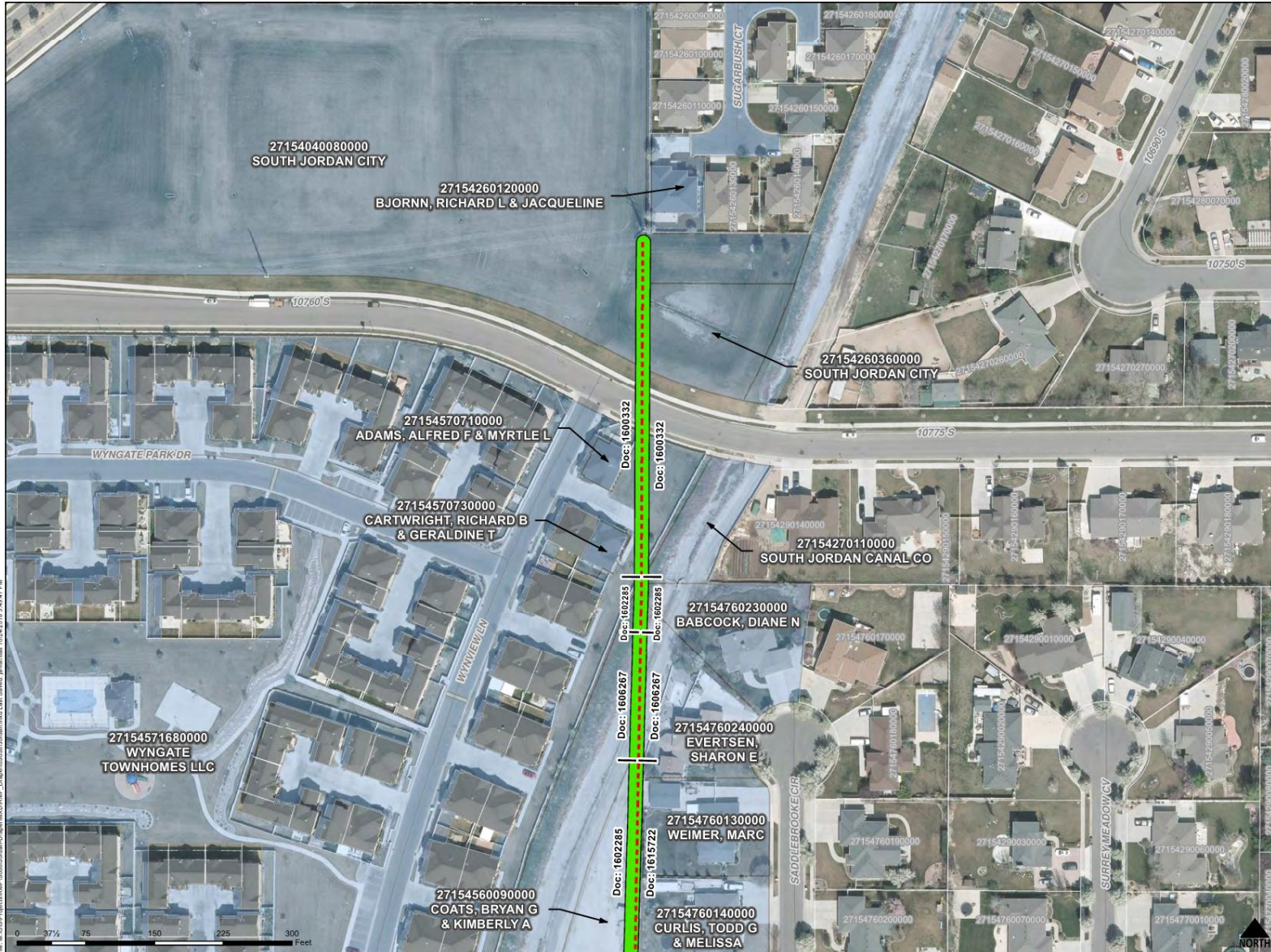
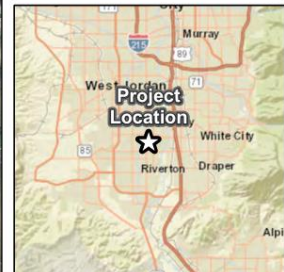
## Legend

--- 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





South Jordan - Draper  
Rebuild



Legend

--- Proposed Transmission  
Centerline Rebuild

Existing Right-of-Way

Green line: No Set Width

Orange line: Set Width

Blue outline: Parcels on Project

Grey outline: Municipal Boundaries

Thick black line: Interstates

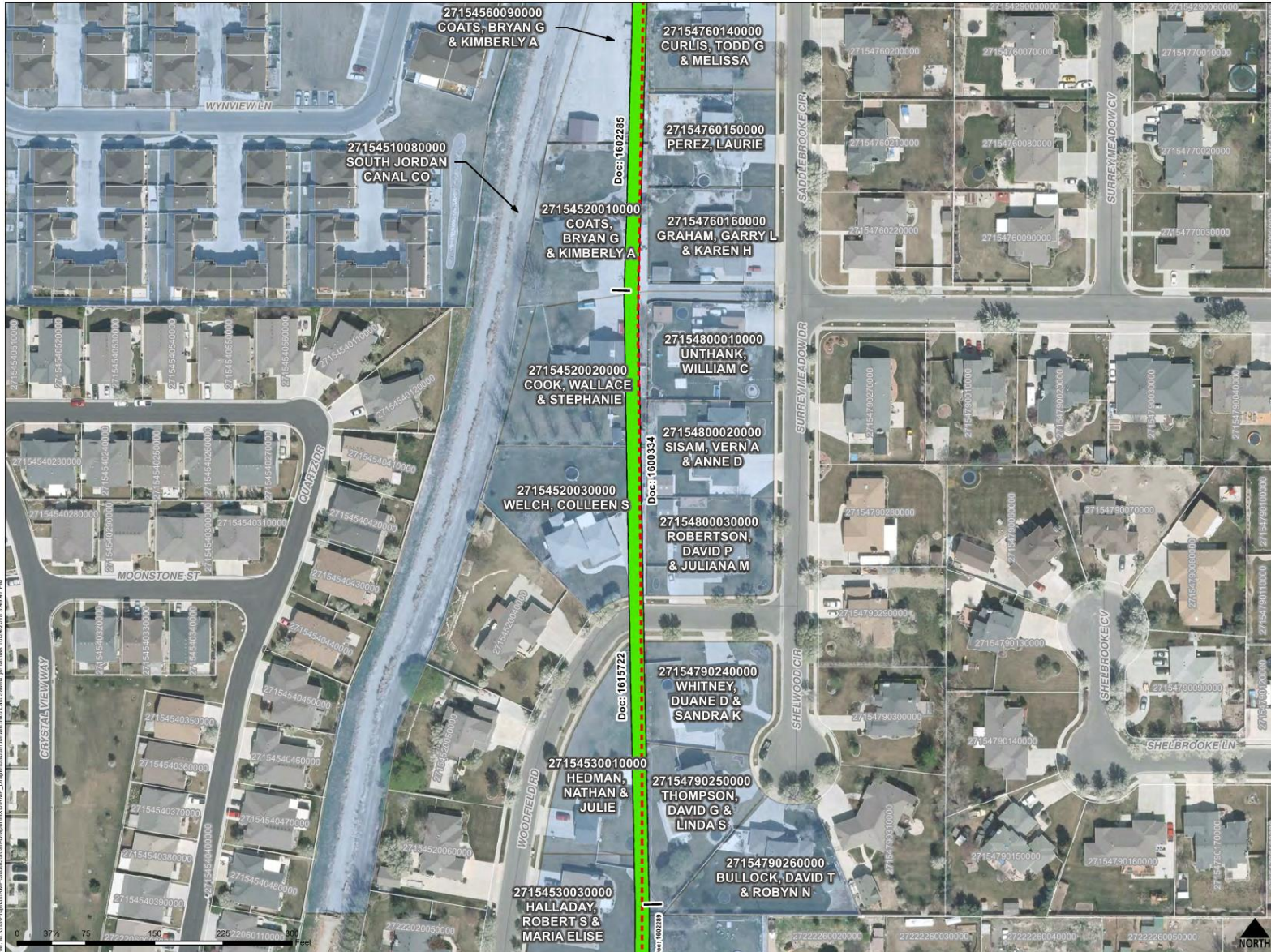
Thin black line: Highways

Thin black line: State Roads

Thin black line: Major Roads

Thin black line: Surface Streets

Coordinate System:  
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# South Jordan - Draper Rebuild



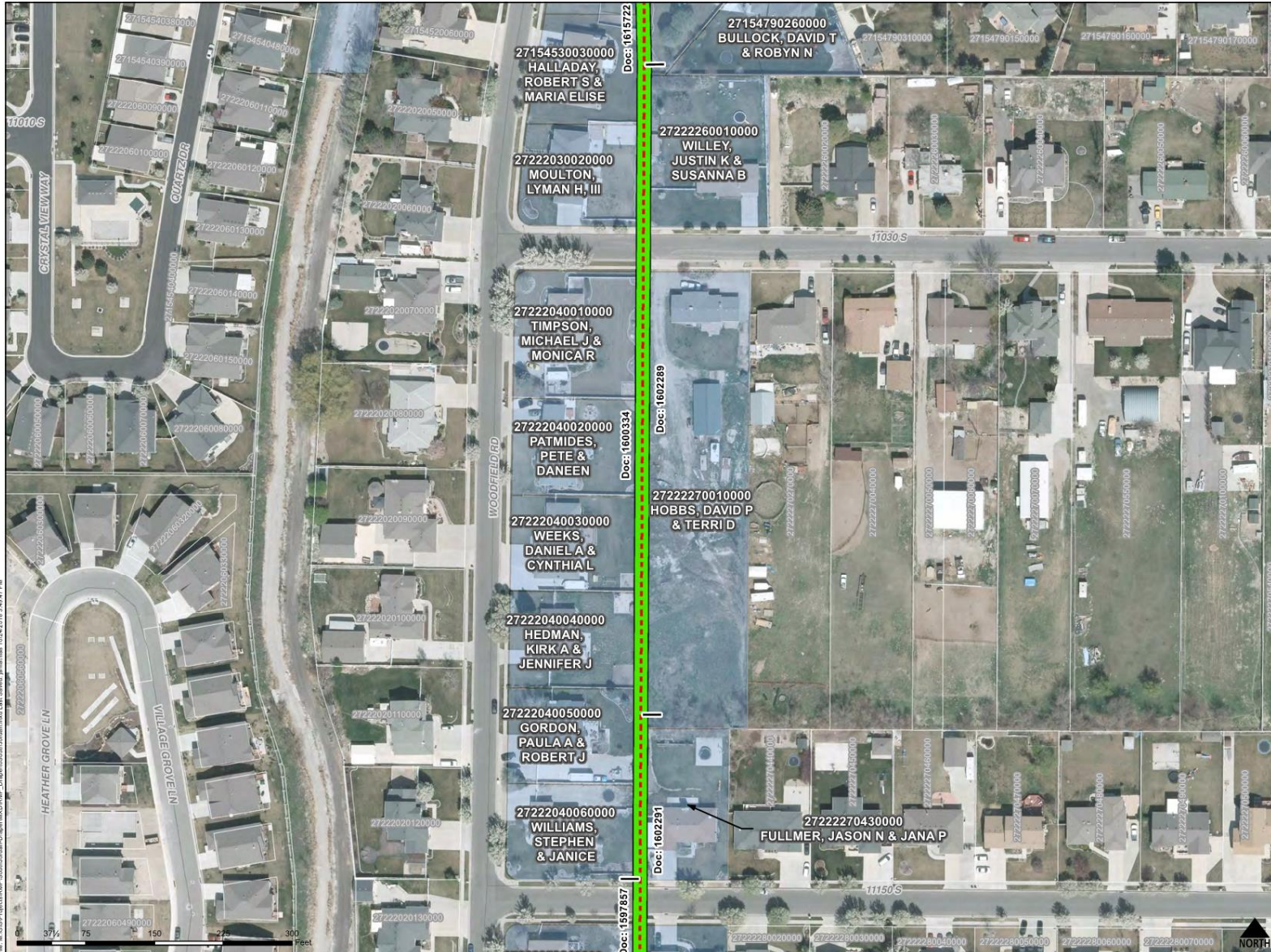
## Legend

--- Proposed Transmission  
Centerline Rebuild

### Existing Right-of-Way

- No Set Width
- Set Width
- Parcels on Project
- Municipal Boundaries
- Interstates
- Highways
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NAD 1983 StatePlane Utah Central FIPS 4302 Feet  
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Source: ECI, SOG&E, Insignia, USFS, Sources: Esri, HERE, DeLorme, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, MEIT, Esri China (Hong Kong), Esri (Thailand), MapmyIndia, © OpenStreetMap contributors, and the GIS User Community



# South Jordan - Draper Rebuild



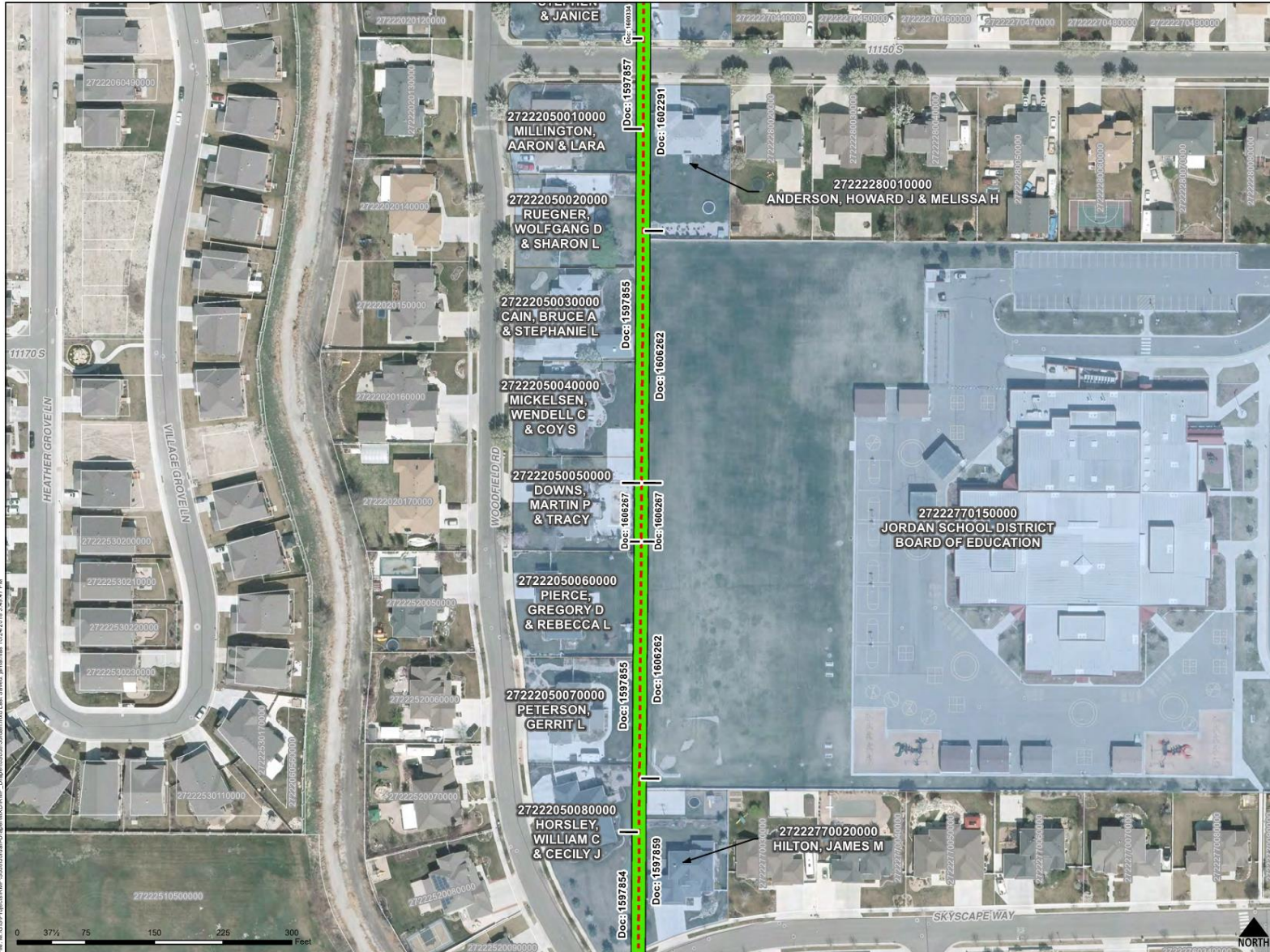
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**Proposed Transmission Centerline Rebuild**

**Existing Right-of-Way**

- No Set Width
- Set Width
- Parcels on Project
- Municipal Boundaries
- Interstates
- Highways
- State Roads
- Major Roads
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Coordinate System:  
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Projection: Lambert Conformal Conic  
Datum: North American 1983  
Units: Foot US







--- Proposed Transmission  
Centerline Rebuild

 No Set Width

 Parcels on Project Municipal Boundaries

— Interstates

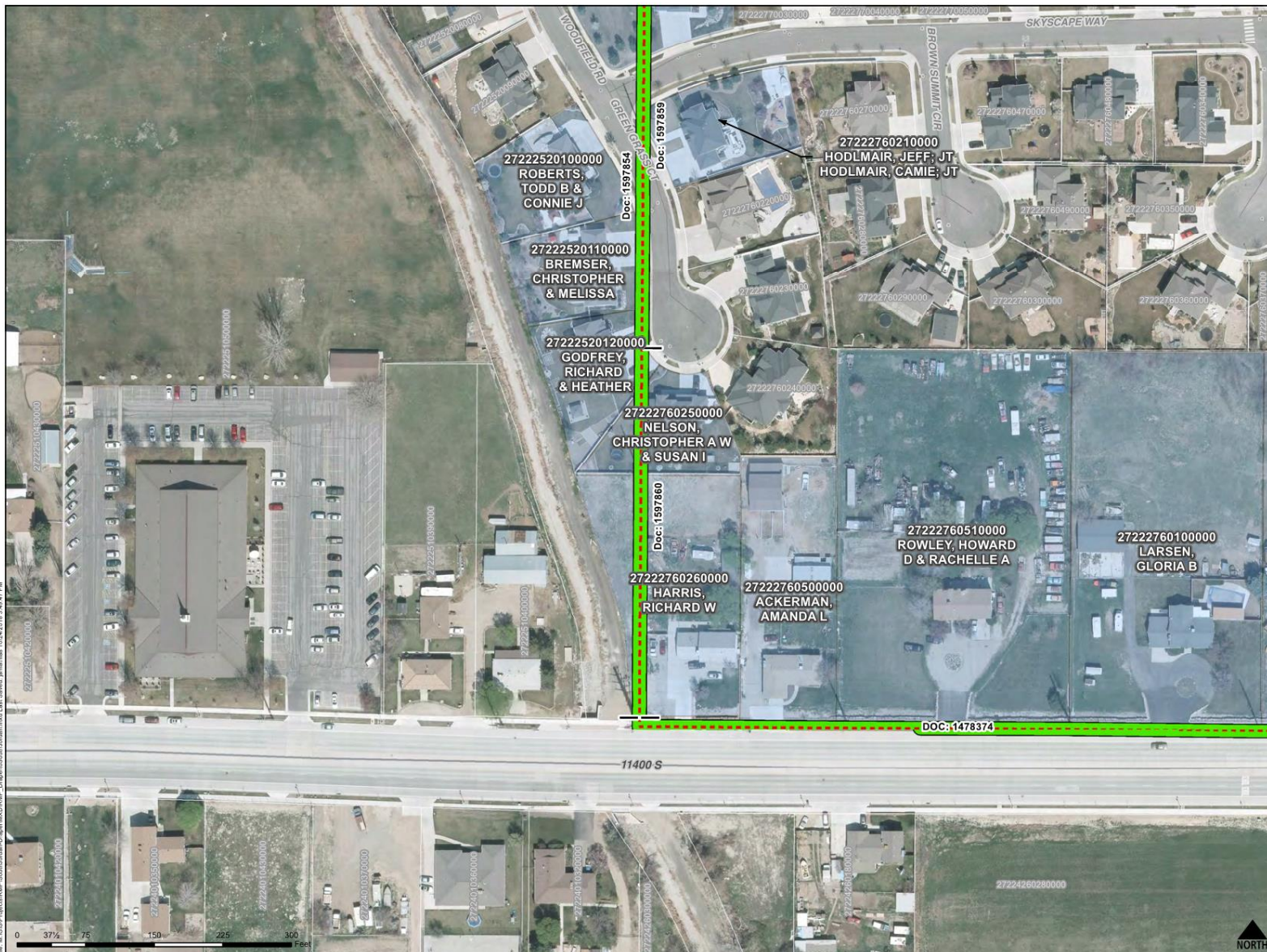
— Highways

—— State Roads

—— Major Roads

—— Surface Streets

Coordinate System:  
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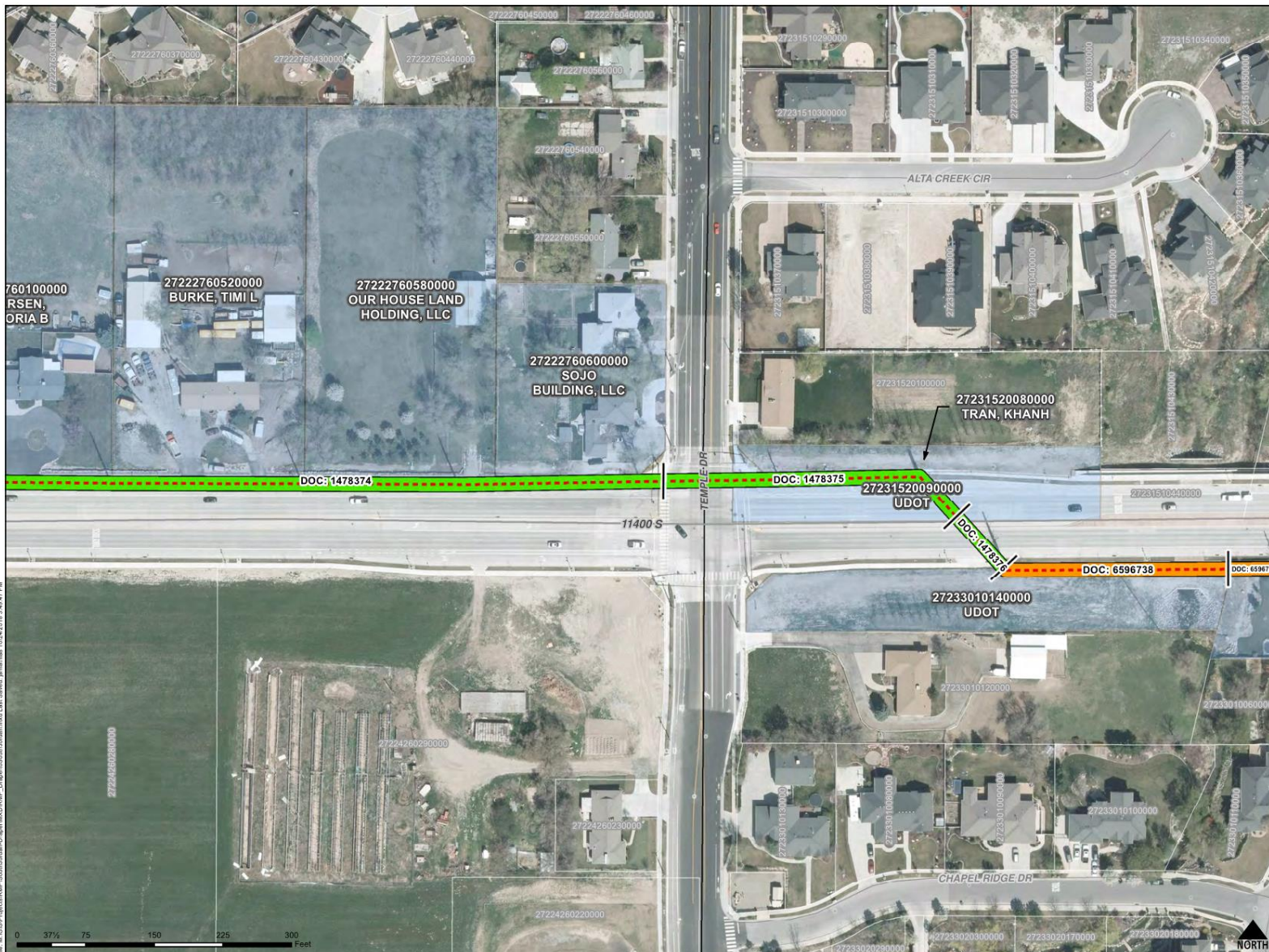
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**Proposed Transmission  
 Centerline Rebuild**

**Existing Right-of-Way**

- No Set Width
- Set Width
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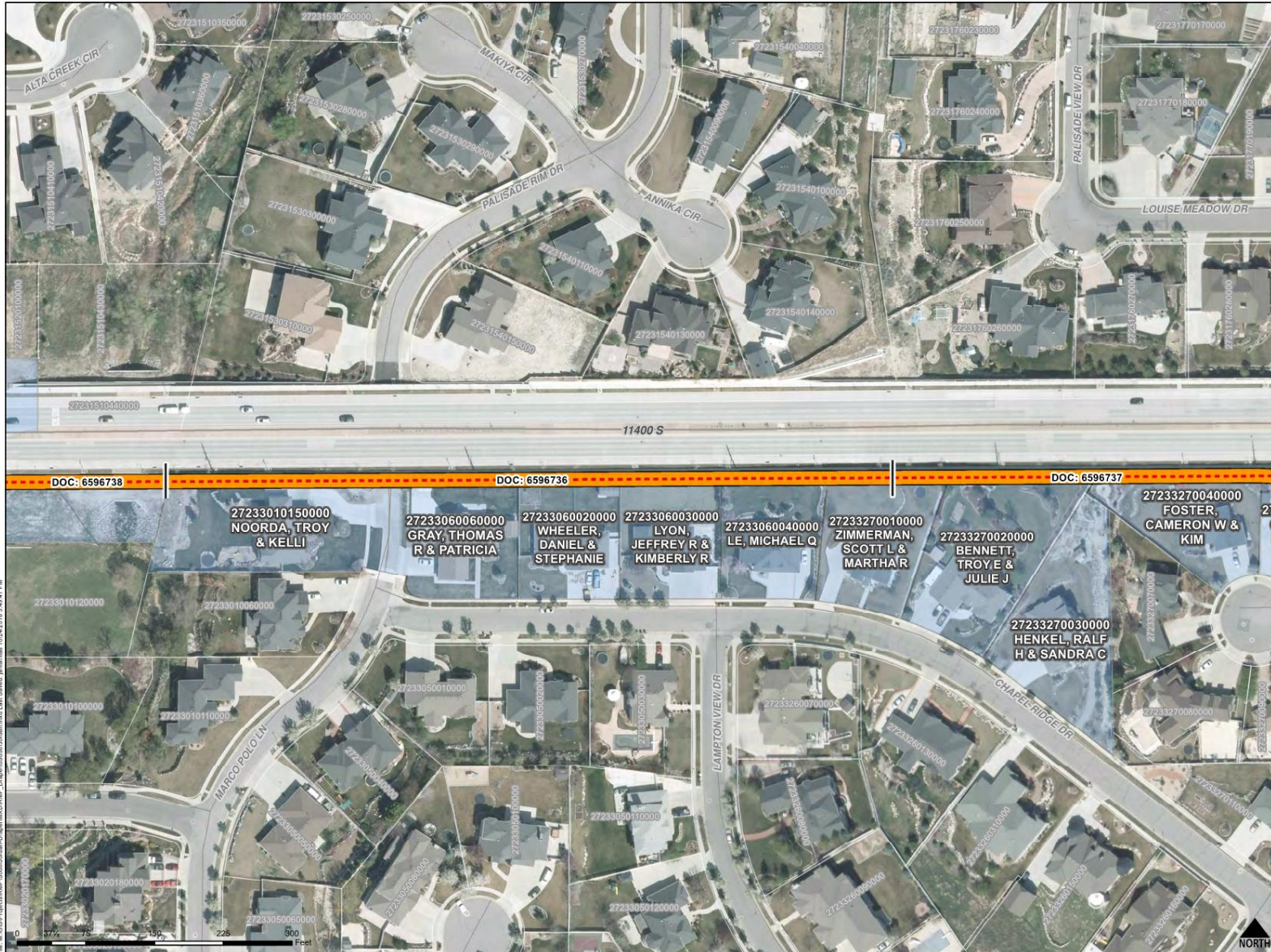
## Legend

--- Proposed Transmission  
Centerline Rebuild

## Existing Right-of-Way

- No Set Width
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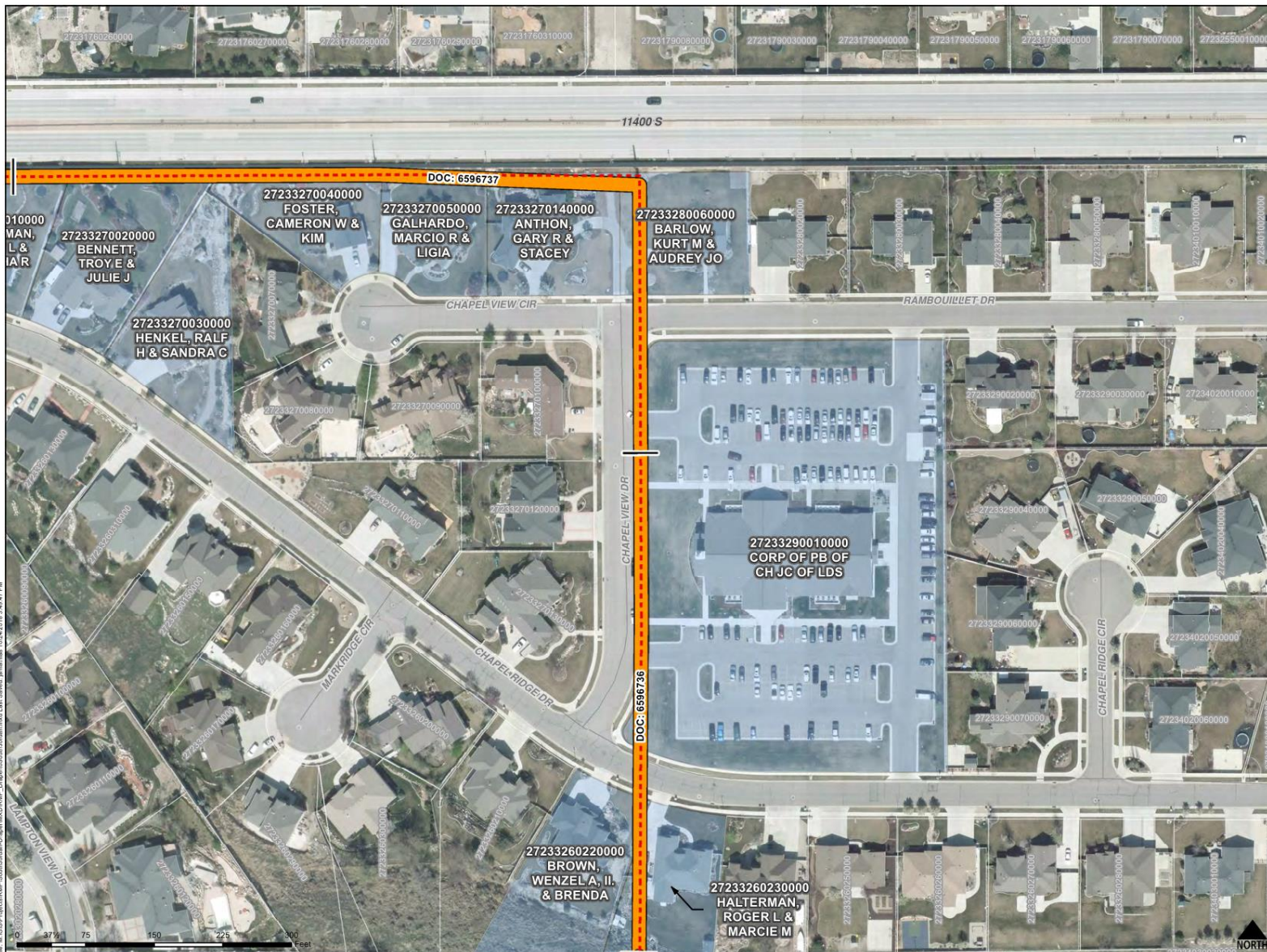


--- Proposed Transmission  
Centerline Rebuild

 No Set Width

-  Set Width
-  Parcels on Project
-  Municipal Boundaries
-  Interstates
-  Highways
-  State Roads
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### Legend

- **Proposed Transmission Centerline Rebuild**
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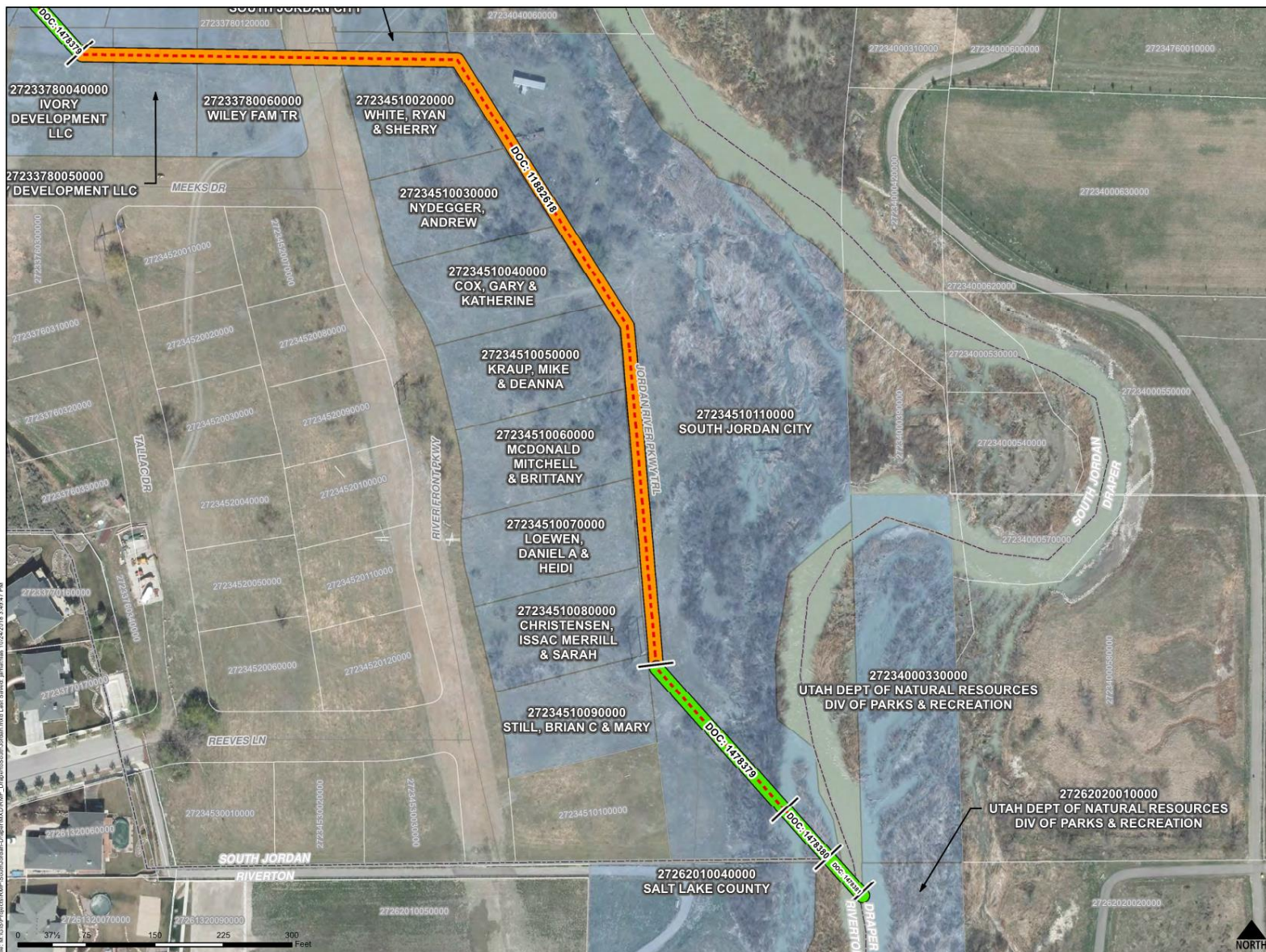
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**Proposed Transmission Centerline Rebuild**

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