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March 20, 2026

Marisa Stoller, City Clerk
City Hall
255 W. Alameda
Tucson, AZ 85701

RE: Appeal of Zoning Examiner's Decision in TP-ENT-1025-00021

Dear Mayor and Council,

Pursuant to Unified Development Code (UDC) 3.4.3.I, Underground Arizona hereby appeals the Zoning Examiner's decision approving Special Exception Land Use Permit (SELUP) TP-ENT-1025-00021 for the Vine Substation, part of Tucson Electric Power Company's (TEP) Midtown Reliability Project (Project).

The SELUP as approved will negatively impact adjacent development in the highest density part of the city, interfere with communication signals, harm property values, increase fire risk and insurance costs, and harm the aesthetics and character of residential and historic neighborhoods, the University of Arizona, Tucson, and the region—among other things—for decades to come.

According to prior TEP and City practice, including the prior Zoning Examiner decision denying the Vine Substation, a new substation is inseparable from the new transmission lines required for it to function. Furthermore, as a practical matter, this SELUP proceeding may be the City's only meaningful opportunity to apply its plans and ordinances to the larger Project, and that opportunity should not be nullified by arbitrary inconsistency.

We respectfully request that you reverse the approval as an abuse of discretion or erroneous because: (1) the substation and dependent on-site and off-site transmission lines negatively impact adjacent land uses and the surrounding neighborhoods and are not substantially mitigated by the current conditions, contrary to UDC 3.4.5.A.2; and (2) the substation and dependent on-site and off-site transmission lines do not comply with at least the General Plan or University Area Plan, contrary to UDC 3.4.5.A.5.

As relief, we request that you condition the approval to require that TEP underground any currently planned or future on-site or off-site transmission lines and related infrastructure. Doing so will substantially mitigate negative impacts and comply with the General Plan and University Area Plan. Alternatively, we request that you deny the application.

Figure 1. Speedway & Park looking toward Euclid. Wrapping around new infill development.

Key Observation Point (KOP) #41



Current Condition



Simulated Condition

I. To approve a SELUP, UDC requires no adverse effects on adjacent land uses or the surrounding neighborhood and compliance with City plans.

“UDC 3.4.5.A. To grant a special exception the PDSD Director and the Zoning Examiner must find that the requested special exception:

2. Does not adversely affect adjacent land uses or the surrounding neighborhood or that such adverse effects can be substantially mitigated through the use of additional conditions as provided in Section 3.4.6;

5. Complies with the General Plan and any applicable sub-regional, area, or neighborhood plan.” [Emphasis added]

II. The SELUP violates UDC 3.4.5.A.2 because the substation and dependent transmission lines DO adversely affect adjacent land use and the surrounding neighborhood, and such adverse effects are not substantially mitigated through the Zoning Examiner’s conditions.

a. On-site and off-site transmission lines adversely affect adjacent land use and neighborhoods and must be considered as part of the SELUP framework under UDC.

There are no existing 138 kV industrial transmission lines on-site or in the University area.¹ In order to function, the Vine Substation will require these new lines to be built and they will range in height from 75-to-130 feet.² In the areas where there are existing 4-to-14 kV distribution lines, the lines are typically 30 feet tall, and, at worst, 40 feet tall. As such, these new lines will be 10-to-40 times higher voltage, and 2-to-4 times taller, than typical utility infrastructure in the University area. Thus, they carry substantial adverse impacts to adjacent land uses and the surrounding neighborhood.

Prior decisions by TEP and Zoning Examiners recognized this fact. First, in 2020, TEP eliminated the Euclid Route because of conflicts with adjacent land uses.³ Second, in 2021, the Zoning Examiner—an attorney—denied the Vine Substation because of his inability to rule out the adverse impacts of new transmission lines.^{4,5} And, third, unlike TEP’s other recent substation applications, the current application completely omits any discussion of the required

¹ See images and testimony from Section IV(a)(iii)

² From page 40 of TEP’s May 24, 2024 application to the Arizona Corporation Commission for a CEC: “Supporting structures typically will range from 75 feet to 130 feet above grade for the transmission lines.” <https://docket.images.azcc.gov/0000211112.pdf>

³ Appendix 1

⁴ Appendix 3

⁵ The Arizona Corporation Commission has jurisdiction only to determine transmission line routes. It has no jurisdiction over substations or over how facilities are built within an approved route, such as whether a line is placed overhead or underground. City plans and ordinances govern how facilities are built within a route. The City’s process is independent of the ACC process.

transmission lines.⁶ As a result, the Zoning Examiner did not examine these primary adverse impacts, arbitrarily limiting his consideration to walls, noise, and lighting.

An applicant cannot be allowed to subvert public due process and enforcement of the UDC through material omission. The adverse impacts of new, dependent transmission lines must be considered as part of a substation SELUP proceeding.

Figure 2. Speedway & Euclid looking South. West of new infill development, over private property, in West University HPZ.



Figure 3. Adams St & Vine Ave looking West. Residential interior street. No existing lines.



⁶ Appendix 4 and 5

- b. The Zoning Examiner has not set forth any condition or safeguard, pursuant to UDC 3.4.6, that can substantially mitigate such adverse effects.

Contrary to the Zoning Examiner’s analysis of his own authority (see decision, p. 6), the SELUP framework routinely considers impacts beyond the parcel boundary and allows conditions to mitigate those impacts. Indeed, conditions placed upon the intersection SELUP decisions of this very same Project required actions on off-site infrastructure—including infrastructure in the right-of-way—such as undergrounding distribution lines and removing 46 kV substations.⁷ In his decision, the Zoning Examiner erred in failing to substantially mitigate adverse impacts from the substation and its dependent transmission lines through conditions, as required by UDC 3.4.5.A.2.

Pursuant to UDC 3.4.6, Mayor and Council can correct this error by conditioning approval on TEP undergrounding any currently planned or future on-site or off-site transmission lines and infrastructure. Such a condition would mitigate adverse impacts to adjacent land uses and the surrounding neighborhoods.

III. The Special Exception violates UDC 3.4.5.A.5 because the substation and dependent transmission lines DO NOT comply with the General Plan or University Area Plan.

- a. If constructed overhead, the Project is incompatible with Plan Tucson 2025 (the General Plan) and the University Area Plan.

Plan Tucson 2025 was duly adopted in 2025 and applies to all of Tucson.⁸ Plan Tucson 2025, Guideline A.25, states: *“Improve the appearance of above-ground utilities and structures by requiring facilities to be located, installed, and maintained to minimize visual impact and preserve access to views. Utilities should be installed underground where possible, and the visual impact of above-ground utility infrastructure should be a prime consideration in the City’s acceptance and approval.”* [Emphasis added]

The University Area Plan was duly adopted in 1989 and applies between Broadway Blvd and Grant Rd, and between Stone Ave and Country Club Rd.⁹ The University Area Plan, Section 6, Policy 6, states: *“Wherever possible, place utility and service equipment underground or in other visually screened locations.”* [Emphasis added]

As two prior Zoning Examiners—again, both attorneys—have found, new overhead transmission lines are plainly incompatible with City plans that encourage or require undergrounding, contrary to UDC 3.4.5.A.5.¹⁰ This Zoning Examiner erred in finding that the

⁷ Appendix 6

⁸ <https://www.tucsonaz.gov/files/sharedassets/public/v/1/pdsd/documents/plan-tucson-2025/general-plan-update-final-document/plan-tucson-2025-final-document.pdf>

⁹ https://beta.tucsonaz.gov/files/sharedassets/public/city-services/planning-development-services/documents/university_area_plan.pdf

¹⁰ Appendix 3

substation complies with City plans requiring undergrounding by omitting consideration of transmission lines. Mayor and Council can correct this error in the same manner as is outlined in Section II.

b. Mayor and Council previously found comparable route incompatible with City plans.

As additional support, we note that on September 1, 2021, Mayor and Council directed the City Manager, City Attorney, and staff that a comparable route (substantially the same north of Broadway) “must be rejected as either a preferred route or an alternate route” and expressly cited, among other reasons, the route’s “incompatibility with existing plans of the City” and its “rejection through TEP’s own procedures.”¹¹ The University Area Plan was featured prominently in that discussion.

IV. TEP has acknowledged under oath that it is possible to underground transmission lines, which is demonstrated by the successful undergrounding of lines in other Arizona municipalities; the transmission lines interfere with communications signals; and the lines interfere with high-density development.

*a. From July 8-19, 2024, TEP provided over 2,000 pages of testimony on this project before the ACC in a line siting hearing.*¹²

i. TEP testified that it is possible to underground its transmission lines (p. 26):

“Meghan Grabel (TEP): We do not contest that the line can be constructed below ground. It is physically possible to do so.”

ii. And again here (pg. 1813):

“Roi Lusk (City of Tucson): So, and I don’t think anybody has testified that you can’t [underground] physically or technologically. Is that correct?”

Clark Bryner (TEP): Correct.”

iii. TEP testified that there are no existing transmission lines near the University of Arizona (p. 747):

“Daniel Dempsey (Underground Arizona): But generally speaking around the University of Arizona there are no transmission lines?”

Clark Bryner (TEP): No transmission lines; correct.”

iv. TEP testified that transmission lines interfere with communications signals (p. 584):

¹¹ Appendix 2.

¹² It is available on ACC Docket L-00000C-24-0118-00232.

“Clark Bryner (TEP): Some communications are point-to-point, and especially microwave communications have a very specific, small path where that communication signal travels through, and anything that breaks that path can make that obsolete.

And so it's a real thing that we need to watch out for if we break that specific path. And then, as we all know, if you drive under a high voltage line, if you've got the radio going, a lot of times you'll get nothing but static for a minute, so there are other communication factors as well.”

- v. UMC Banner testified that transmission lines interfere with new investment (p. 1254):

“Michele De Blasi (UMC Banner): And so if you're in the building, as opposed to a homeowner who this line would be above their home and not in eyesight, would this line be directly at eye level for someone standing in the building?

Mark Barkenbush (UMC Banner): It would be eye level for the majority of our floors in our patient tower.

Michele De Blasi (UMC Banner): And would this interfere with the whole purpose of the amount of investment in your patient areas and your towers?

Mark Barkenbush (UMC Banner): Yes. It would.”

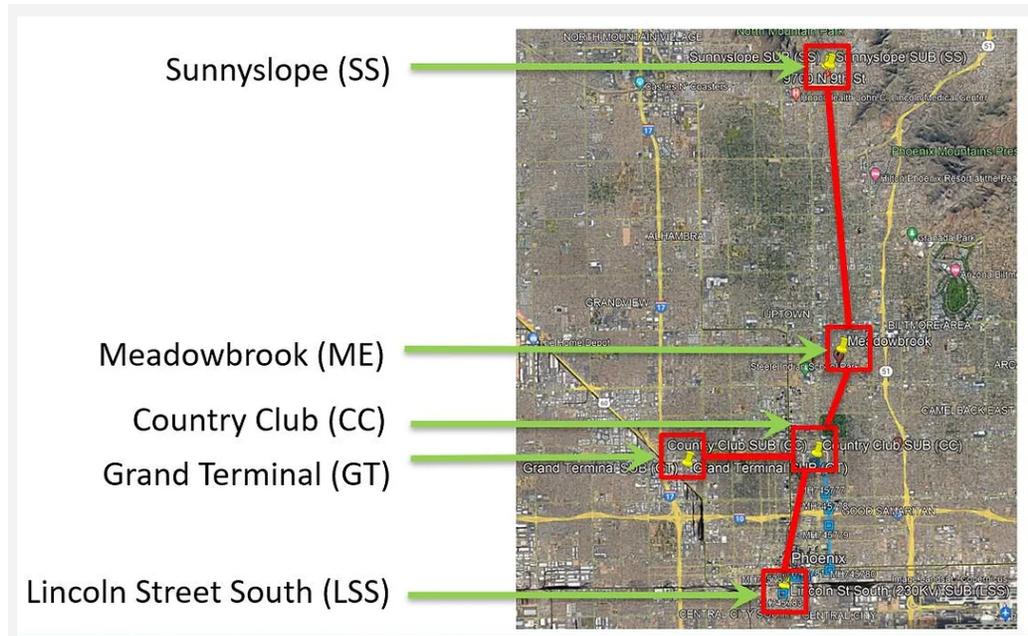
- vi. UMC Banner testified that it expects the City to enforce ordinances and plans that protect views. (p. 1321):

“Daniel Dempsey (Underground Arizona): Generally speaking, do you expect the City to enforce its ordinances and plans that protect views?

Mark Barkenbush (UMC Banner): Yes, I would.”

b. Underground transmission lines are common throughout Arizona.

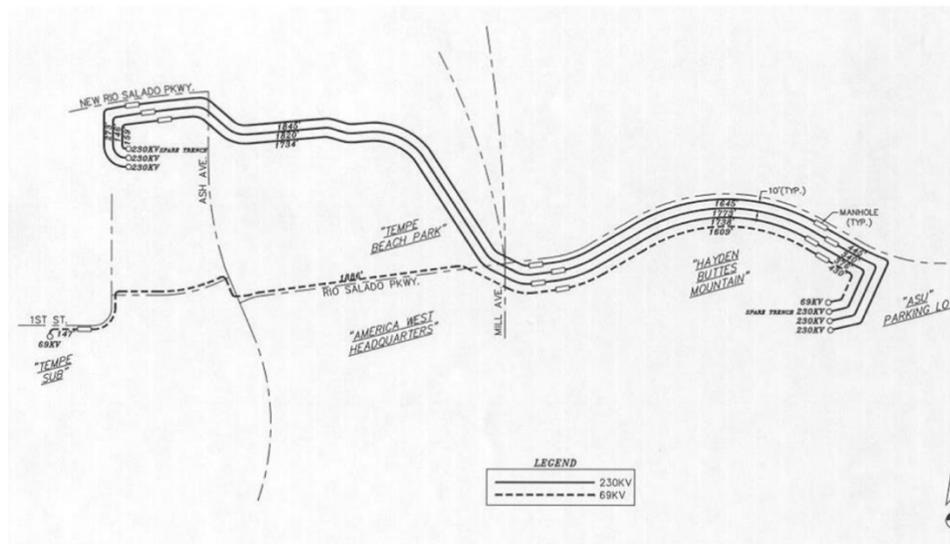
i. Figure 4. Central Phoenix has at least 14 miles of underground transmission lines.



Source: APS Underground Phoenix Line Upgrade Website

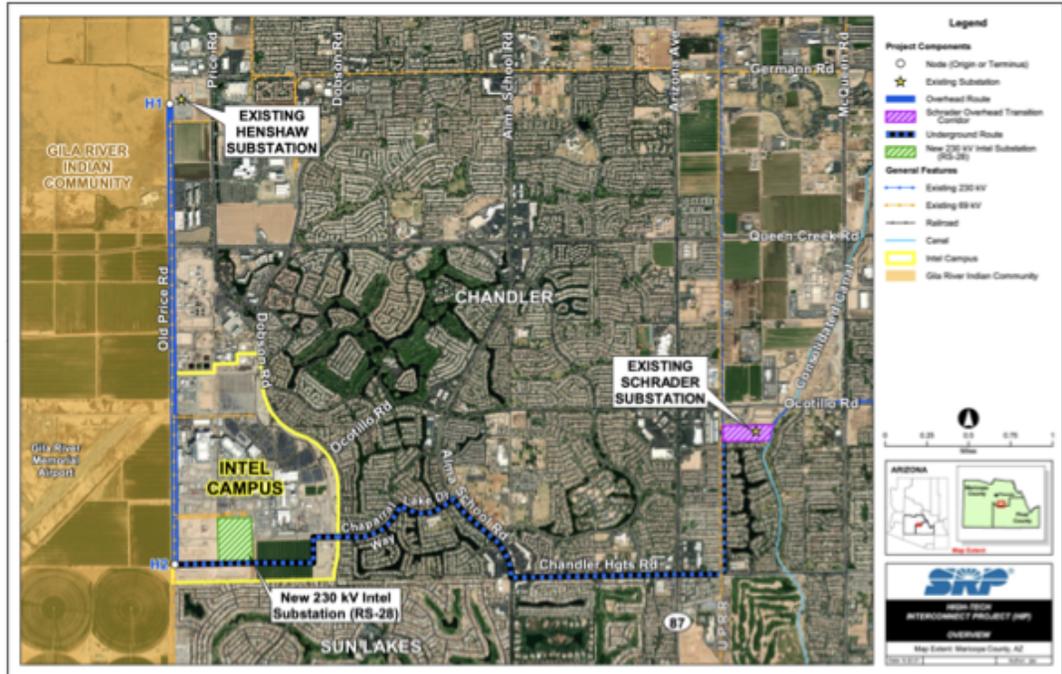
ii. Figure 5. Tempe has at least 8 miles of underground transmission lines adjacent to Arizona State University (ASU).

Fig No.1
Rio Salado UG Transmission Line Route Phase I



Source: APS Tempe Town Lake 230kV OH/UG Conversion Project Presentation

iii. Figure 6. Chandler has at least 5 miles of underground transmission lines.



Source: ACC Docket L-02217B-21-0322-00195, Line Siting Case 195

Underground transmission lines are common throughout Arizona. To comply with the law in Tucson, TEP would only have to underground roughly two miles of new transmission lines. It has the requisite resources and legal authority. Its only objection has been cost. But cost cannot create an infeasibility issue pursuant to Section 21 of TEP’s current Franchise Agreement.¹³ Moreover, the cost would be insignificant by any reasonable definition.¹⁴

CONCLUSION

Like TEP and the City, we want to get this project done. However, TEP faces many more obstacles within at least the University area: HPZs, NPZs, easements, acquisitions, condemnations, private property damage lawsuits, etc. Those obstacles and delays can be avoided by correcting the Zoning Examiner’s errors.

And, like UMC Banner testified before the ACC, we all invest in Tucson with the expectation that City plans and ordinances will be enforced. It is in nobody’s interest to allow TEP to ignore the letter and spirit of the law through arbitrary inconsistencies that put Tucson and the University of Arizona at a competitive disadvantage.

¹³ Section 21(c) states: “The Company shall be required to place new aerial transmission or distribution lines underground only when such placement is feasible for technical or system reasons. Such reasons cannot include the monetary cost of the proposed undergrounding project.”

¹⁴ See Underground Arizona’s February 3, 2026 comment to the Zoning Examiner for more details.

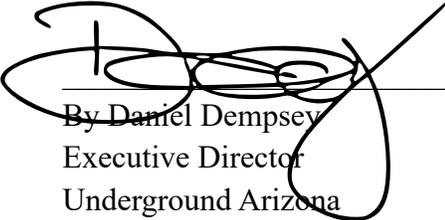
Underground Arizona respectfully requests that Mayor and Council reverse the approval as an abuse of discretion or erroneous because: (1) the substation and dependent transmission lines negatively impact adjacent land uses and the surrounding neighborhoods and are not substantially mitigated by the current conditions, contrary to UDC 3.4.5.A.2; and (2) the substation and dependent transmission lines do not comply with at least the General Plan or University Area Plan, contrary to UDC 3.4.5.A.5.

As relief, we respectfully request that Mayor and Council:

- 1. **Reverse and modify** the SELUP to condition approval on TEP undergrounding any currently planned or future on-site or off-site transmission lines necessary to serve the substation within at least the University Area Plan; doing so will substantially mitigate negative impacts and comply with the General Plan and University Area Plan; or,
 - a. Optionally, further condition approval on TEP undergrounding along Kino-Campbell instead of Euclid, which seemed to be the express preference of Mayor and Council in 2021; the ACC has already approved either route; or,
- 2. **Reverse and deny** SELUP TP-ENT-1025-00021 without prejudice to re-application.

Thank you for your time and engagement on this important issue.

RESPECTFULLY SUBMITTED this 20th day of March, 2026.



By Daniel Dempsey
Executive Director
Underground Arizona

CC: John Beall and Koren Manning, Planning and Development Services Department (PDSD)

APPENDIX

- 1. In 2020, TEP removed the Euclid Route (Route 5A) from consideration because of limited right-of-way space, utility conflicts, building conflicts, adjacency to residential and historic properties, proximity to schools and dormitories, and greater route length and cost.**

From TEP's August 2021 Application to the ACC (p.10):¹⁵

“Footnote 3. Alternative Route 5A was removed from consideration for the following reasons:

- Cost: Alternative Route 5A is as much as 60% greater for overhead construction than the other routes being considered.*
- Constructability: Alternative Route 5A is located in a narrower right-of-way than the other routes being considered. The COT requires that the placement of structures allow for a four foot sidewalk, further reducing available public ROW.*
- Potential Conflicts with existing utilities: Placement of structures for Alternative Route 5A is more difficult due to existing utilities.*
- Existing Buildings: Alternative Route 5A has more conflicts with existing buildings which may require the purchase of existing buildings to enable the proposed transmission line to remain on the same side of the street or, risk the need for multiple street crossings to avoid the structures.*
- Adjacent Residential Use: Alternative Route 5A is adjacent to more residential properties by approximately 10% than the other routes being considered.*
- Historical Properties: Alternative Route 5A is directly adjacent to more historical properties and bisects more historic neighborhoods.*
- Sensitive receptors: Alternative Route 5A has more sensitive receptors as compared to the other routes being considered”*

- 2. In 2021, Mayor and Council determined that the Euclid Route (Route 5A) was incompatible with City plans and directed the City Manager, City Attorney, and staff to reject it.**

- i. From the Legal Action Report of the September 1, 2021 Mayor and Council Special Meeting:¹⁶**

¹⁵ <https://docket.images.azcc.gov/0000204371.pdf>

¹⁶ <https://tucsonaz.hylandcloud.com/221agendaonline/Meetings/ViewMeeting?id=1574&doctype=2>

“It was moved by Council Member Fimbres, duly seconded, and CARRIED by a voice vote of 6 to 0 (Vice Mayor Lee absent/excused), to authorize and direct the City Manager, City Attorney and staff to proceed as discussed in Executive Session; and specifically as follows: ...

2. The City’s position is that TEP’s proposed Route 5A must be rejected as either a preferred route or an alternate route under the statutory criteria that the Committee and the ACC are bound to apply to the application. Reasons for the rejection of Route 5A include, and are not limited to, the following:

a. The route’s incompatibility with existing plans of the City, including voter-approved projects under Propositions 101, 407 and 409, and the City’s General Plan;

c. The rejection of Route 5A two years ago following review by the Community Working Groups through TEP’s own procedures.”

[Emphasis Added]

- ii. The University Area Plan was a significant part of Mayor and Council’s discussion of the Project.¹⁷

3. Prior Zoning Examiner decisions looked beyond strict parcel boundaries and found new overhead transmission lines incompatible with UDC 3.4.5.

- i. From Zoning Examiner Iurino’s decision SE-20-16 on May 13, 2021:¹⁸

- i. On adverse impacts (p. 8): *“At the present time, and on this record, the Zoning Examiner cannot determine whether the proposed special exception land use complies with Plan Tucson and the University Area Plan, or whether the proposed special exception would adversely affect the surrounding neighborhoods.”*

- ii. On compatibility with plans (p. 8): *“PT provides policy direction to protect established residential neighborhoods by supporting compatible development and 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. **The UAP specifically directs that utility***

¹⁷ https://youtu.be/KBqMDmlud_M

¹⁸ <https://docs.tep.com/wp-content/uploads/TEP-Vine-Substation-Zoning-Examiner-decision-and-transcript-May-2021.pdf>

lines be placed underground where possible to mitigate impacts on adjacent uses.

Based on the testimony at the Zoning Examiner hearing and the record, the Applicant does not intend to place the transmission lines underground. While this proceeding is separate from the line-siting process, as a practical matter the two are interrelated. Given the uncertainty regarding the route(s) to be selected for the Kino DMP Transmission Line Project, and the uncertainty of the location of the power lines which will connect with the proposed Vine substation, compliance with PT and UAP cannot be determined on the current record. The Zoning Examiner denies the special exception request, without prejudice to the Applicant to resubmit its request when the additional information discussed above is available. [Emphasis Added]

ii. From Zoning Examiner Cassidy’s decision TP-ENT-1024-00023 on February 21, 2025:¹⁹

- i. On UDC 3.4.5.A.2 (p. 12): ***“The Acting Zoning Examiner also finds that other adverse impacts of overhead lines, including their constrictions on surrounding private and public development and their safety hazards, are significantly reduced or even eliminated by being underground. These adverse effects cannot be substantially mitigated through the use of conditions if the lines are permitted to be installed overhead. Consequently, the Zoning Examiner cannot make the finding required by UDC Section 3.4.5.A.2. In the Zoning Examiner’s opinion, the proposed overhead transmission lines are not “contextually sensitive” to adjacent and surrounding zoning and land uses.*** [Emphasis Added]
- ii. On UDC 3.4.5.A.5 (p. 12): ***“Plan Tucson seeks to maintain and improve the appearance of the City of Tucson. Policy LT1 seeks to achieve more esthetically pleasing public spaces. Although specifically addressed to telecommunications facilities and not electric transmission facilities, Guideline LT28.1.2 requires cabling to be installed underground where possible. Guideline LT28.2.12 supports “environmentally sensitive design that ... enhances the overall function and visual quality of the street, adjacent properties, and the community.” The University Area Plan’s “Public Services” policies expressly provide that utility and service***

¹⁹ <https://www.tucsonaz.gov/files/sharedassets/public/v/1/pdsd/documents/boards-committees-commissions/ze/021325/20250221-rpt-ze-decision-tp-ent-1024-00023-tep-site-2-broadway-euclid.pdf>

equipment should be placed underground whenever possible. As a result, the Zoning Examiner cannot make the finding required by UDC Section 3.4.5.A.5 because this request conflicts with specific language in Plan Tucson and the University Area Plan.”

- iii. On impact to adjacent land uses (p. 13): *“The Zoning Examiner disagrees with Applicant, and instead finds that transmission poles that may reach as high as 95 feet will have a significant impact on the immediately adjacent residential areas.”* [Emphasis Added]
- iv. On undergrounding (p. 13): *“...nothing in the TEP Application suggests that the benefits of the new 138 kV system will be lost by having this segment underground.”*

4. Prior TEP applications, PDSO memoranda, and Zoning Examiner decisions considered transmission lines as part of substation SELUPs.

- i. Vail Substation, Design Considerations (p. 4):²⁰ *“In addition, 85-foot-high transmission poles will be installed to support the transmission lines entering and exiting the substation.”*
- ii. Cottonwood Substation, Description (p. 4):²¹ *“Tucson Electric Power is requesting approval for a new 138 kilovolt (kV) distribution substation and transmission and distribution power lines as a Special Exception Land Use in R-1 and R-2 residential zones.”*
- iii. Patriot Substation, Design Considerations (p. 4):²² *“Transmission poles will be installed to support the transmission lines entering and exiting the substation. The height of the transmission structures will be 85 feet.”*

5. Unlike prior substation SELUP applications, the instant Vine Substation SELUP application, PDSO memorandum, and Zoning Examiner decision omit any requisite discussion of on-site or off-site transmission lines.

²⁰ TP-ENT-0323-00018, April 17, 2023:

<https://tucsonaz.onbaseonline.com/1801AppNet2/docpop/docpop.aspx?clienttype=html&docid=5351128>

²¹ SE-22-35, October 5, 2022: https://www.tucsonaz.gov/files/sharedassets/public/v/1/pdsd/documents/boards-committees-commissions/ze/102022/se-22-35_for_web_posting.pdf

²² SE-21-06, May 26, 2021: https://www.tucsonaz.gov/files/sharedassets/public/v/1/pdsd/documents/boards-committees-commissions/ze/062421/se-21-06_for_web_and_posting.pdf

6. Prior Zoning Examiner decisions on this very same Project were conditioned on infrastructure beyond the parcel boundaries.

- i. TP-ENT-1024-00022 – Perpendicular Crossing - Oracle and Grant Intersection, C-2 Special Exception (Ward 3) Preliminary Conditions (p.1):²³

“10. TEP shall remove all 46 kV substations and lines, including wires, poles, and other equipment, that are no longer required as a result of the upgraded 138 kV substation and transmission line.

11. TEP shall remove all existing parallel overhead lower voltage distribution lines underground, currently located within the same road right-of-way as the Projected as constructed.”

- ii. TP-ENT-1024-00024 – Perpendicular Crossing – Kino Parkway and East 36th, PAD, Special Exception (Ward 5) Preliminary Conditions (p. 1):²⁴

“9. TEP shall remove (including along the north side of 36th Street) all 46 kV substations and lines, including wires, poles, and other equipment, that are no longer required as a result of the upgraded 138 kV substation and transmission line.

10. TEP shall remove all existing parallel overhead lower voltage distribution lines underground, currently located within the same road right-of-way as the Projected as constructed.”

²³ <https://tucsonaz.hylandcloud.com/221agendaonline/Meetings/ViewMeeting?id=1866&doctype=2:>

“It was moved by Council Member Lee, duly seconded, and PASSED by a roll call vote of 5 to 2 (Council Members Cunningham and Uhlich voted No) to grant the appeals with respects to 36th and Kino, to Grant and Oracle subject to all the conditions as recommended in the Planning Development and Services Department recommended conditions in the report and the additional condition that no relief is sought by Tucson Electric Power with respect to Broadway and Euclid.”

²⁴ https://www.tucsonaz.gov/files/sharedassets/public/v/1/pdsd/documents/boards-committees-commissions/ze/021325/tp-ent-1024-00024-preliminary-conditions_revised.pdf