

Item #3

Underground Transmission Line Relief Special Exception

REVIEW OF PROPOSED TEXT AMENDMENTS TO THE UNIFIED
DEVELOPMENT CODE (UDC) RELATED TO CREATING A SPECIAL EXCEPTION
PROCESS TO PROVIDE RELIEF FROM UNDERGROUND UTILITY
REQUIREMENTS IN GATEWAY AND SCENIC CORRIDOR ZONES

PLANNING COMMISSION PUBLIC HEARING

APRIL 6, 2022



Background of Text Amendment

July 19, 2021 – Tucson Electric Power (TEP) requests Zoning Administrator Determination (ZAD) on requirement to underground transmission lines in a Gateway Corridor Zone (GCZ)

August 25, 2021 – City of Tucson Zoning Administrator issues the ZAD stating “that the requirement to underground utilities within a Gateway Corridor Zone as indicated in Unified Development Code (UDC) Section 5.5.4.B.1.a, apply to the Kino to DMP 138kV Transmission Line Project.”

September 23, 2021 – TEP files an appeal of the August 25, 2021 ZAD

November 17, 2021 – TEP requests an extension of the appeal to the Board of Adjustment. The request is granted.

November 23, 2021 - Mayor and Council held an executive session and study session to discuss the ZAD and the requirement to underground transmission lines along SCZs and GCZs. At the study session, the Mayor and Council directed staff “to explore conditions under which a special exception process will be followed to explore relief from our existing Scenic and Gateway Corridor requirements.”

Underground Transmission Line Relief Special Exception

Issue

- Regulations of the Scenic Corridor Zone (SCZ) and Gateway Corridor Zone (GCZ) currently require all new and replacement utilities to be placed underground
- Certain situations where there are physical, archeological, cultural, or financial reasons make placing utilities underground infeasible
- Currently a zoning variance through the Board of Adjustment is the only option for relief from SCZ and GCZ requirement for underground transmission lines
- The proposed Zoning Examiner Special Exception Procedure and criteria would allow for relief from those SCZ and GCZ requirement for underground transmission lines, but would require a public review and approval process where site specific zoning conditions may be added

Zoning Examiner Special Exception Process

The following is a general overview of this process:

- Mailed neighborhood notification for a neighborhood meeting of all properties within 400 feet of the project and all neighborhood associations within 1 mile of the project prior to the submittal of the application.
- Application submittal detailing how the proposal meets all the requirements of the use-specific standards in the UDC.
- Staff review of the proposal with recommendation to the Zoning Examiner.
- Mailed notice of public hearing sent to all properties within 400 feet of the project and all neighborhood associations within 1 mile of the project.
- Notice of the public hearing posted on site and in local paper.
- Public Hearing before the Zoning Examiner for a decision.
- All appeals directed to Mayor and Council for a final decision.

Zoning Examiner Special Exception Process

All Zoning Examiner Special Exceptions must meet 3.4.5, Findings:

1. Meets the standard expressly applied by all adopted by all codes and regulations for that type of land use or for the land use class applicable to the proposed use;
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](#);
3. Provides for adequate and efficient vehicular and pedestrian access and circulation and vehicular parking;
4. Can be adequately and efficiently served by public facilities and services, such as water, storm water drainage, fire and police protection, and solid and liquid waste disposal and/or collection as may be required by the various public and private agencies; and,
5. Complies with the General Plan and any applicable sub-regional, area, or neighborhood plan.

Special Exception vs. Variance

The proposed Special Exception process differs from current Variance process in the following ways:

- The request for relief via variance goes to the Board of Adjustment, like other variance requests; while the proposed Special Exception is directed to the Zoning Examiner;
- In the variance process, after the Board decision, there is no appeal to the Mayor and Council. The proposed Special Exception process includes an appeal to the Mayor and Council (with additional public notice required for this appeal).
- The existing variance process does not establish site-specific criteria for the evaluation of the requested relief in the same manner as the proposed Special Exception process, but instead focuses on the hardship faced by the applicant caused by the code requirements (e.g. that special circumstances exist such that the property cannot reasonably be developed in conformity with the code requirement).

Planning Commission Feedback

The following is an overview of the feedback from the study session:

- Concern this is just a blanket waiver for relief from the need to underground in Gateway and Scenic corridors
 - This is only establishing a process for relief – this is not granting relief for any projects
 - The Special Exception process is a site-specific public review process that includes public notification and a public hearing
 - All projects must meet all the applicable criteria and the findings for all special exceptions (Sec. 3.4.5)
- Concern about the definition of Hospital and if it is too broad
 - Added language to clarify the definition of Hospital (Major Medical Services)
- Suggestion to clarify language in criteria “i” as it is confusing
 - Proposed language was amended to be more clear

Proposed Amendment to the UDC

Proposed Amendments

- Amend UDC to allow for relief from underground utility requirements of the Scenic and Gateway Corridor Zones through a Zoning Examiner Special Exception Process when all applicable criteria are met

Criteria for Special Exception approval

- a. 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.
- b. Underground construction causes 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,
- c. Minimal impact on residential areas with adequate setback,
- d. Existing high-voltage transmission lines, vertical structures, or buildings in area that already compromise the viewshed,
- e. Overhead lines located on non-Gateway or non-Scenic corridor route that perpendicularly crosses a Gateway Corridor Zone or Scenic Corridor Zone,
- f. Repair or upgrade of existing facilities where proposed facilities are similar in size and scale to the existing facilities being repaired or replaced,

Criteria for Special Exception approval (continued)

- g. 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,
- h. Proposed transmission lines 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 Monthan AFB or other installations necessary to the national defense, hospitals (Major Medical Services, per UDC Section 11.3.4.Q), research facilities, etc.,
- i. Proposed overhead transmission lines, rather than undergrounded transmission lines on a particular route, would avoid undesirable aesthetic, viewshed, or other adverse impacts elsewhere, should the transmission lines be located on an alternative route,
- j. Proposed project in an area where costs to install underground would have a disparate impact on low-income residents. ~~Satisfaction of this criterion alone is not sufficient as a finding for approval and must be found in conjunction with at least one other criterion.~~
- k. A Special Exception request to relieve the requirement to underground transmission lines that meets the findings established by UDC section 3.4.5, Findings and which also meets criteria a, e, and g of this subsection is deemed to presumptively meet the required findings for approval.

Feedback from the public

- This removes the underground requirements of the GCZ and SCZ
 - The UDC currently has a process to request relief from the underground requirements of the GCZ and SCZ through a variance (Board of Adjustment review)
 - This proposal establishes a new public process with more appropriate criteria to allow for relief in appropriate situations, while still meeting the intent of the regulation
- Concern this is just a blanket waiver for relief from the need to underground in Gateway and Scenic corridors
 - This is only establishing a process for relief – this is not granting relief for any projects
 - The Special Exception process is a site-specific public review process that includes public notification and a public hearing
 - All segments must meet all the applicable criteria and the findings for all special exceptions (Sec. 3.4.5)
- There should always be full public review without prejudice of any proposed exception
 - The proposed special exception process for underground relief includes full public notification and review
- Concern about large transmission lines in residential and historic neighborhoods
 - Currently there are no underground requirements in the UDC for transmission or distribution lines on local streets or non SCZ or GCZ routes

Recommendation

Staff recommends the Planning Commission approve a motion to:

“Recommend the underground transmission line relief special exception UDC text amendment to the City of Tucson Mayor and Council.”