



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM Matt Loesch

SUBJECT: SEE BELOW

DATE: March 18, 2024

Approved

Date

3/28/24

**SUBJECT: ADOPTION OF ORDINANCES TO ESTABLISH 14 NEW RULE 20A
UNDERGROUND UTILITY DISTRICTS**

RECOMMENDATION

Conduct Public Hearings and approve ordinances to establish Rule 20A Underground Utility Districts along Willow Street, East San Salvador Street, Empire Street, Hensley Street, North First Street, North Second Street, North Third Street, North Fourth Street, White Road, Story Road, Felipe Avenue, Coyote Road, San Felipe Road, Branham Lane, Almaden Road, Almaden Expressway, Coleman Road, Blossom Hill Road, Snell Avenue, Saratoga Avenue, Umbarger Road, and North Taylor Street.

SUMMARY AND OUTCOME

This memorandum recommends the establishment of 14 Rule 20A Underground Utility Districts (**Attachment A** – Location Maps). Approval of these ordinances will enable the City Council to establish the 14 districts. Removal of aerial wires and utility poles within these districts will improve the appearance, pedestrian safety and mobility, and utility equipment maintenance.

BACKGROUND

Through Rule 20A, the California Public Utilities Commission (CPUC) requires Pacific Gas and Electric Company (PG&E) to annually set aside funds for financing the undergrounding of overhead distribution facilities located on public streets within the City of San José. The projects will also be funded by the respective telecom utility company, such as AT&T and Comcast, pursuant Rule 32 of the CPUC. Similar to electric facilities, this CPUC governing tariff requires AT&T and Comcast to replace their overhead facilities, at their expense, with underground facilities in areas determined to be in the general public interest.

Order Instituting Rulemaking and Revisions to Electric Rule 20

On May 11, 2017, the CPUC commenced Order Instituting Rulemaking 17-05-010 (Rulemaking), a proceeding to reevaluate the Rule 20 program and its objectives. The initial scope of the Rulemaking analyzed many issues of concern for the City, including allocation of Rule 20A work credits, the appropriate uses of Rule 20A work credits, project cost overruns, and program management.

On June 7, 2021, the CPUC issued the Phase 1 Decision 21-06-013, dated June 3, 2021, in the Rulemaking. The Decision 21-06-013 revised the Rule 20A program by the following: (1) discontinuing new work credit allocations for Rule 20A projects, (2) clarified Rule 20A project eligibility criteria and work credit transfer rules, and (3) enhanced program oversight. As a result, the City's Rule 20A allocation was capped at approximately \$38 million.

On June 13, 2023, the CPUC issued the Phase 2 Decision 23-06-008, dated June 8, 2023 (Final Decision) revising the Rule 20 program and closing the Rulemaking. The Final Decision discontinued the Rule 20A program to prevent ratepayers from funding inefficient and inequitable infrastructure investments. The Final Decision orders any Rule 20A work credit that has not been allocated to a community with an active Rule 20A project, which is defined as project with signed resolution or legislation, within two years of the effective date of this decision shall be deemed expired. At the time, amongst the original \$38 million in work credits capped in 2021, the City had only four active projects worth \$17 million in Rule 20A work credits, putting at risk the remaining \$21 million in Rule 20A work credits. The City's \$21 million in work credits will expire and could be redistributed to other jurisdictions unless new active projects are first legislated by City Council and then submitted and approved by the CPUC no later than December 2024. By this same process across the region, there is also an opportunity for the City to pursue an additional \$40 million in unclaimed work credits from other jurisdictions if the City creates a surplus of new, program-competitive underground districts.

On September 19, 2023¹, City Council directed staff to review the list of potential projects, identify additional sites that meet the criteria approved by the CPUC and City Council, and report back to City Council in March 2024 for the establishment of the underground districts to maximize the use of the existing credit before the program sunset date of December 31, 2033 established by the CPUC.

The provisions and procedures to establish underground utility districts are defined in Chapter 15.24 of the San José Municipal Code. The San José Municipal Code requires City Council to conduct a public hearing and adopt an ordinance prior to the establishment of an underground utility district. The proposed districts are also required to meet the following CPUC and San José Municipal Code criteria for establishing underground utility districts, namely that:

¹ <https://sanjose.legistar.com/View.ashx?M=F&ID=12281689&GUID=C31DADA0-2FFA-47AC-9068-D2930DA5B7BB>

- Such removal and replacement will eliminate, and such prohibition will avoid, an unusually heavy concentration of poles and overhead wires within said area;
- The public streets or right-of-way within said area are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic;
- The public streets or right-of-way within said area adjoin or pass through a civic area or public recreation area, or an area of unusual scenic interest to the general public; and
- The street or road or right-of-way is considered an arterial or major collector as defined in the Governor's Office of Planning and Research General Plan Guidelines.

In addition to the four basic justification criteria above, staff prioritized the proposed districts by evaluating whether the proposed district meets the following criteria: combined equity scores of eight or higher obtained from the City of San José Equity Atlas, complements Capital Improvement Program projects, completes previous undergrounded segments, fronts City facilities, ease of construction, minimizes costs to single family residences, and gateway streets to downtown.

ANALYSIS

The removal of aerial wires and utility poles provides a significant visual benefit to the public, enhances pedestrian safety, and increases resiliency by reducing potential outages during storms, such as the high-speed winds that occurred in January 2024 that caused significant power outages in San José and throughout the region.

To secure the remaining \$21 million in Rule 20A work credits due to the City, as well as maximize the City's position to potentially seek over \$40 million in additional funding in unclaimed work credits redistributed from other jurisdictions, the following actions were taken to prepare for the new undergrounding districts: staff performed preliminary site visits, reviewed qualifications, held discussions with PG&E and other utility companies, and met with Mayor and City Council Offices to identify additional potential sites that met the criteria. Fourteen proposed underground utility districts were selected and prioritized from over 50 potential areas. Staff also conducted community meetings from February 12, 2024 through 16, 2024.

Summary of Community Meetings

Ten community meetings covering all 14 proposed districts were held between February 12, 2024 through 16, 2024, to inform the public of the proposed underground utility districts. A summary of community meeting data may be found in **Attachment B**.

- Community members in favor of creating an underground utility district recognized the benefit related to fire safety and having new infrastructure. The in-favor districts included Almaden Road, Story Road, Umbarger Road, Coyote Road, and Empire Street / Hensley Street.
- Community members who were not supportive of the proposed districts found the potential out-of-pocket expenses for the property owner(s) to perform the electric service panel conversions too expensive. This expense is likely several thousand dollars more than the reimbursement amount of \$1,500. These concerned districts included White Road (Mount Pleasant High School), East San Salvador Street, and North First Street / North Taylor Street.
- Community meetings which had no members in attendance included Branham Lane, White Road, Blossom Hill Road / Snell Road, Saratoga Avenue, and San Felipe Road.

Private Property Owners and Possible Conversion Costs

Establishing the new underground districts does not guarantee PG&E will accept and prioritize the design and construction of a district. Only when PG&E moves forward with design and construction would any of the districts possibly require further action from property owners to upgrade equipment on their private property.

The cost of electrical service conversion is dependent on the type and age of the existing services, but typically could cost up to \$10,000 for single-family residences. Commercial buildings and multi-family residences service conversions could cost up to \$15,000 or higher. These estimates are based on current projects and may change due to the construction market at the time of construction.

The CPUC provides that Rule 20A funds may be utilized to reimburse private property owners' expenses for conversion work up to \$1,500 per service entrance. Additionally, PG&E, Comcast, and AT&T will provide up to 100 feet of trenching and conduit installation for properties requiring conversion within the district, from the front property line to the building structure. Any properties inside the proposed districts that receive utility service from outside the proposed district boundaries, or are already receiving service from another underground system, will not be affected by these districts.

Underground District Areas and Scope of Work

Establishment of the proposed districts requires the conversion of approximately 41,950 linear feet of aerial facilities to underground facilities in the public right-of-way along Willow Street, East San Salvador Street, Empire Street, Hensley Street, First Street, Second Street, Third Street, Fourth Street, White Road, Story Road, Felipe Avenue, Coyote Road, San Felipe Road, Branham Lane, Almaden Road, Almaden Expressway, Coleman Road, Blossom Hill Road, Snell Avenue, Saratoga Avenue, North Taylor Street, and Umbarger Road.

Within the limits of these districts, the majority of the utilities will be placed in underground conduits and vaults. Utility companies may need to install aboveground structures, such as cabinets, for equipment that cannot be placed in underground vaults. These cabinets may be placed in public right-of-way or on private properties. The size, quantity, and actual location of the cabinets will be determined during the design phase of each district. At PG&E's request, the proposed district's boundaries include entire parcels as well as the public rights-of-way. Certain properties and all backyard utility facilities, including poles and wires, will be exempted from the district to minimize impacts to properties outside the district.

There are approximately 421 properties included in the 14 proposed districts. Of the 421 properties, 190 are currently receiving overhead service and will require electrical service conversion work in order to receive electrical power from the underground system. Easements requirements will be determined during the design phase.

On March 20, 2024, notices of a public hearing were mailed to all utility companies, property owners, and owners adjacent to the proposed districts.

EVALUATION AND FOLLOW-UP

Upon City Council's approval of the ordinances at the public hearing, staff will notify and coordinate with all utility companies for allocation of work credits to fund the projects by July 2024.

COST SUMMARY/IMPLICATIONS

The establishment of these underground districts and their associated projects will achieve the utility undergrounding of aerial wires and utility poles to improve the appearance, pedestrian safety and mobility, and utility equipment maintenance within the 14 districts. The City will bear the estimated cost of \$1,400,000 (2% of total estimated cost), which comes from the 416 - Public Work's Underground Utility Fund and 429 - Building and Structure Construction Tax Fund. Currently, there is not enough funding to absorb the total project costs; however, due to the anticipated design and construction timelines for these projects, costs are to be spread over the next 10 years and funding will be identified once a new district is established. This will enable staff to allocate existing Rule 20A work credits, and seek to obtain reallocated work credits from other municipalities, if our request is approved by the CPUC. The total cost to utility companies (PG&E, AT&T, and Comcast) is estimated to be \$68,200,000 under Rule 20 for PG&E and under Rule 32 for telecommunications companies to cover their proportional share for the utility distribution costs.

In addition to the remaining work credit balance of \$21 million, the City is pursuing up to an additional \$40 million of unallocated work credits from inactive jurisdictions within PG&E's service area. This will require the City to have established utility underground districts before

applying to the CPUC by December 2024 for the reallocation of PG&E's unused work credits. The City will be required to submit applications to PG&E to be included in its reallocation plan. The reallocation plan is still being developed according to PG&E's Rule 20A Work Credit Reallocation Webinar conducted on February 28, 2024. PG&E conducted this webinar to include communities in PG&E's decision making for the reallocation plan. PG&E will inform communities on next steps once its plan is finalized.

Staff first prioritized half of the proposed districts to meet all criteria approved by the CPUC and City Council to maximize the remaining work credit balance of \$21 million. These underground districts consider criteria of higher public benefit and area usage, such as the frontage of libraries, parks, and schools. Priority is then given to combined racial equity scores meeting the CPUC's Environmental and Social Justice Community criteria, ease of construction with sufficient right-of-way, adjacency to completed undergrounding districts, and less impact to City facilities such as streetlights and traffic signals. Some districts may prove infeasible, so the City's priority list purposefully exceeds the \$21 million cap for Rule 20A work credits to ensure the City has backup districts to exhaust the full amount.

Priority #	Underground District	Estimate Construction Cost	Council District	Prioritized Criteria Score
1	Umbarger Road	\$3,098,000.00	7	7
2	Branham Lane	\$2,478,000.00	9	7
3	Almaden Road Almaden Expressway Coleman Road	\$4,337,000.00	10	7
4	Coyote Road (Shady Oaks Park)	\$4,492,000.00	2	7
5	Saratoga Avenue	\$1,549,000.00	1	6
6	White Road (Mount Pleasant High School)	\$4,259,000.00	5	6
7	San Felipe Road	\$14,714,000.00	8	6
	Total	\$ 34,927,000		

To pursue more than \$40 million in work credits from other jurisdictions, the remaining seven proposed districts are prioritized to be included in the reallocation plan to be the most competitive as underserved communities with household incomes less than 80 percent of the area or state income using the City's Combined Racial Equity Score. With districts with the same Income Equity Score, priority is then given to ease of construction with sufficient right-of-way, adjacency to completed undergrounding districts, and less impact to city facilities such as streetlights and traffic signals.

Priority #	Underground District	Estimate Construction Cost	Council District	Income Equity Score (1-5)
1	Willow Street	\$3,252,000.00	3	5
2	E. San Salvador Street	\$3,872,000.00	3	5
3	Empire Street Hensley Street	\$6,970,000.00	3	5
4	Blossom Hill Road	\$4,182,000.00	2	5
5	Story Road Felipe Avenue	\$6,660,000.00	7	5
6	White Road	\$1,704,000.00	5	4
7	N. 1st Street N. Taylor Street	\$6,505,000.00	4	4
	Total	\$33,145,000		

Beyond the City's priority order for both tables above, ultimately, the undergrounding districts will then move forward in a priority order determined by PG&E and the CPUC.

The proposed underground utility districts will have no significant impact to the General Fund operating budget.

1. TOTAL COST OF UNDERGROUND UTILITY DISTRICTS:

COST TO UTILITY COMPANIES:

PG&E Rule 20A Allocation	\$55,600,000
AT&T Rule 32A.1	8,400,000
Comcast	<u>4,200,000</u>
Total Cost to Utility Companies (Estimated)	68,200,000

COST TO CITY:

Project Development, Administration and Construction	
Inspection (Fund 416)	840,000
City Facilities Conversion (20A) (Fund 429)	<u>560,000</u>
Total Cost to City (Estimated)	1,400,000

TOTAL ESTIMATED COSTS: \$69,600,000

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the staff and City costs as part of the recommended project in this memorandum. As the current funds are not sufficient for all projects, the protracted time to deliver all projects will give staff time work with the City Manager's Budget Office to identify adequate funds for specific projects prior to construction.

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Contract	2023-2024 Adopted Capital Budget (Page)	Last Budget Action (Date, Ord. No.)
416	4786	Underground Utility Admin. (20A)	\$540,000	N/A	153	2/13/24, 31040
429	5063	Underground Utilities-City Conversions	\$608,000	N/A	1104	6/20/23, 30933
Total Current Funding Available			\$1,148,000			

Note - Additional funding will be made available in the following future years.

COORDINATION

This memorandum and corresponding documents have been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Planning, Building, and Code Enforcement Department. In addition, the districts have been coordinated with the utility companies.

PUBLIC OUTREACH

The following outreach was conducted as required by Section 15.24 of the San José Municipal Code for the purposes of establishing underground districts.

Ten community meetings covering all 14 proposed districts were held between February 12, 2024 through 16, 2024, to inform the public of these undergrounding districts. Staff provided information on district limits, schedule, and property owner responsibilities along with the benefits of undergrounding. Staff also discussed in detail private electrical panel conversion work.

Staff explained options to minimize cost of conversions and explained the PG&E policy and procedure for the \$1,500 service conversion reimbursement. Property owners were informed that staff would provide contact information and deadlines to ensure upgrades would be appropriately

incorporated into the undergrounding design. Upgrades to existing panels and electrical service or electrical panel conversion work that are not identified as part of the project, if desired by the property owner, will be paid for by the property owners.

On March 20, 2024, staff sent notices of the public hearing to all utility companies, property owners, and occupants of properties adjoining the proposed districts.

A Notice of Establishment will be mailed within 20 days of the effective date of the ordinance before a district is legislated. Additional correspondence will occur with property owners requiring electrical panel service conversions throughout the proposed projects. Prior to the start of construction activities, PG&E will place “Door Hanger” construction notices on adjacent properties.

This memorandum will be posted on the City’s Council Agenda website for the April 9, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Categorically Exempt, File No. ER24-011, Exempt pursuant to CEQA Guidelines Section 15301(b) Existing Facilities and 15302(d) Conversion of Overhead Electric Facilities.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City’s Open Government Resolution.

/s/

MATT LOESCH
Director of Public Works

For questions, please contact Mathew Nguyen, Deputy Director of Public Works, at (408) 535-8300.

ATTACHMENTS:

Attachment A – Location Maps
Attachment B – Community Meeting Data



CITY OF SAN JOSE

WILLOW STREET

UNDERGROUND UTILITY DISTRICT

LEGEND:

RULE 20A BOUNDARY

C

ELECTRICAL CONVERSION

1653

ADDRESS

43405012

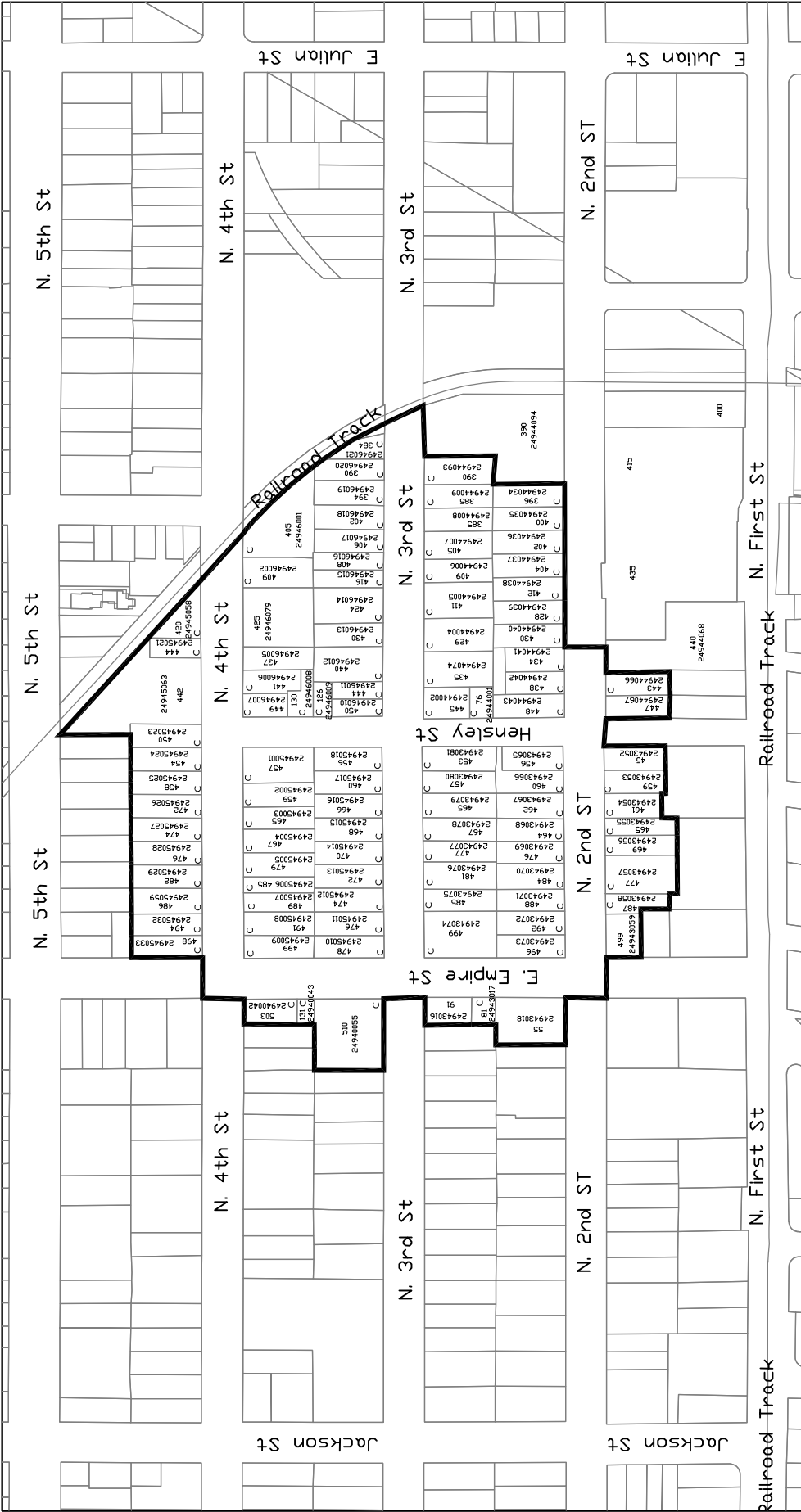
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CITY OF SAN JOSE
E. SAN SALVADOR STREET
UNDERGROUND UTILITY DISTRICT





CITY OF SAN JOSE

EMPIRE STREET, AND HENSLEY STREET

UNDERGROUND UTILITY DISTRICT

LEGEND:

RULE 20A BOUNDARY

C

ELECTRICAL CONVERSION

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EX POLE TO BE EXEMPTED

1653

ADDRESS

43405012

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NOT TO SCALE



C - ELECTRICAL CONVERSION

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CITY OF SAN JOSE

N. FIRST STREET AND N. TAYLOR STREET UNDERGROUND UTILITY DISTRICT

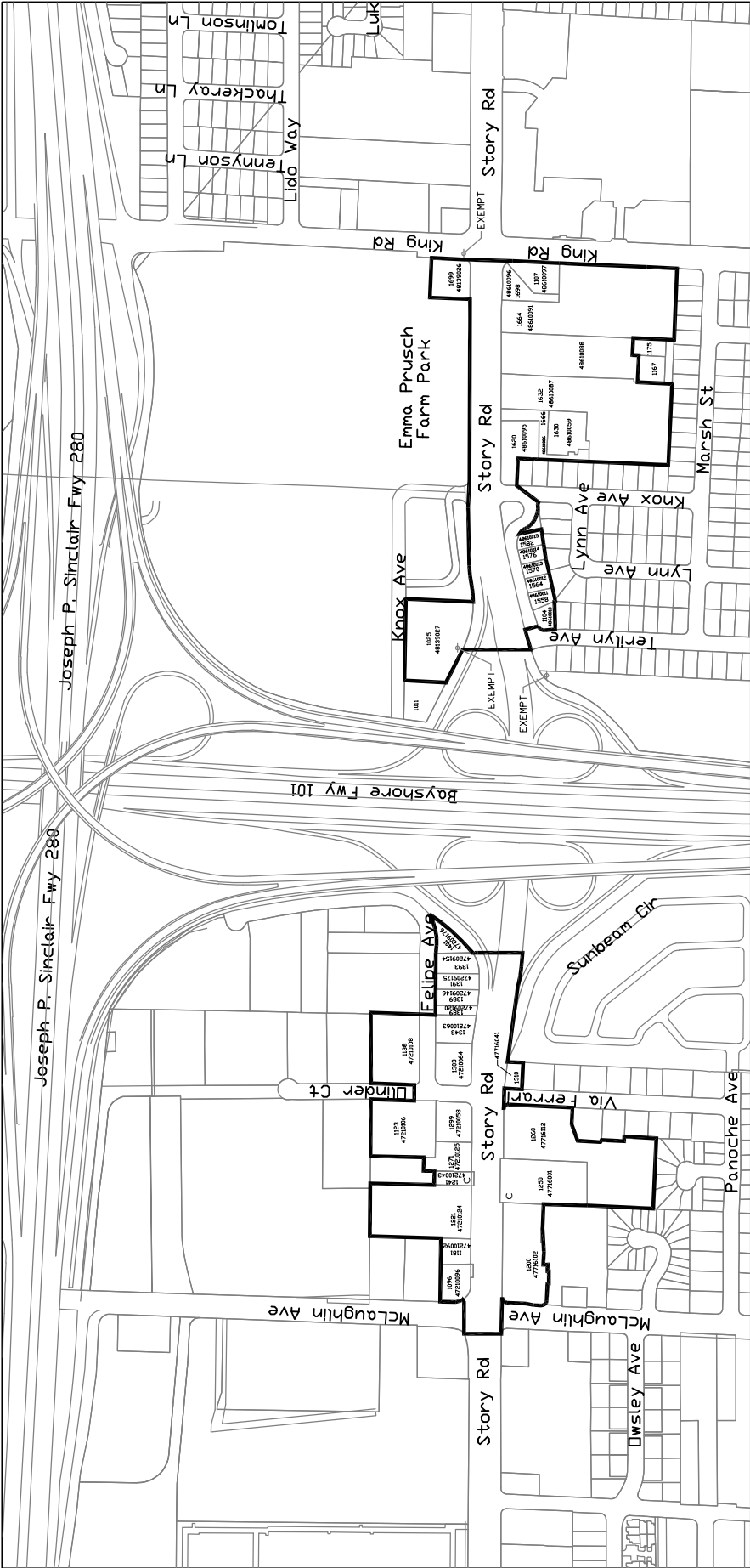




CITY OF SAN JOSE
WHITE ROAD
UNDERGROUND UTILITY DISTRICT





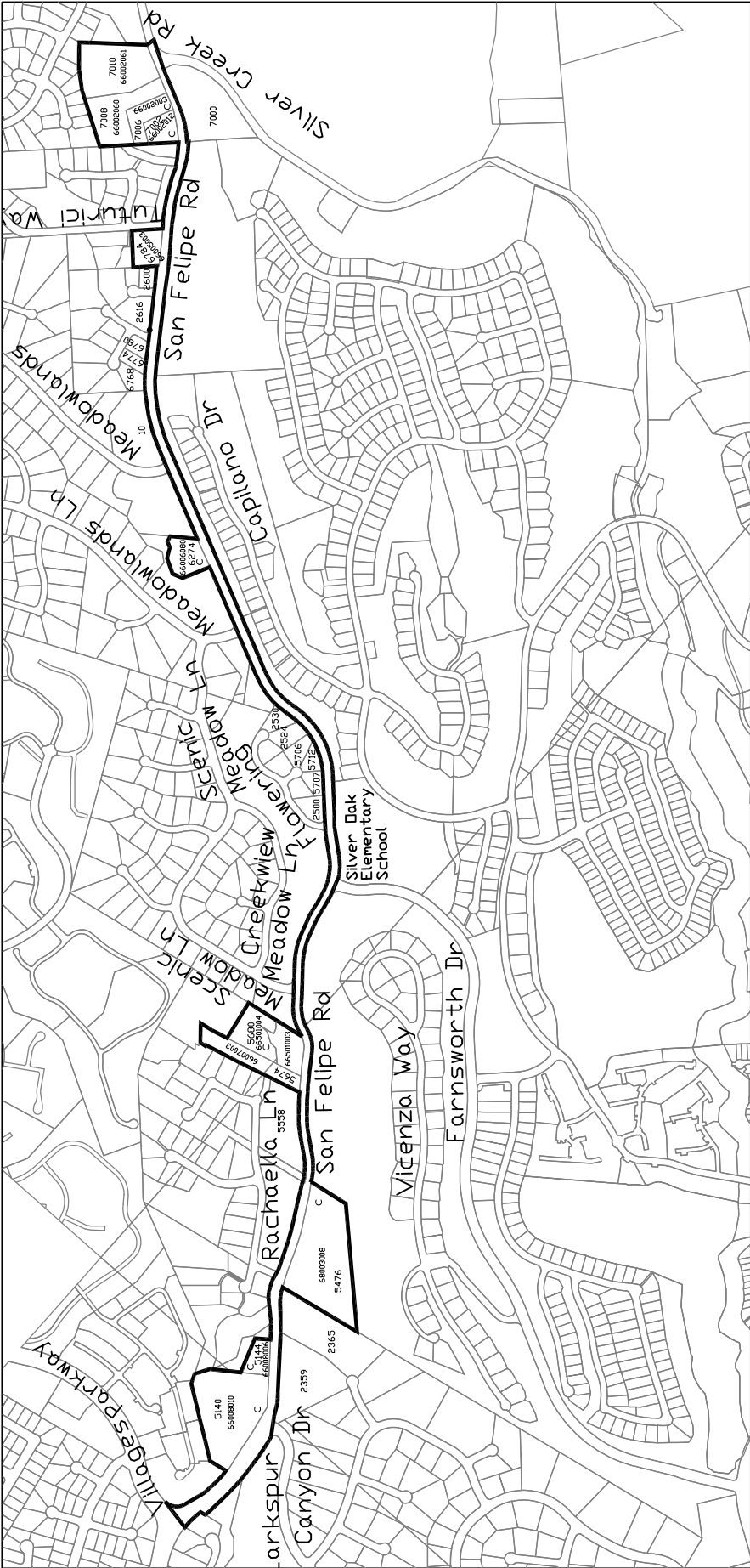






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CITY OF SAN JOSE
COYOTE ROAD
UNDERGROUND UTILITY DISTRICT





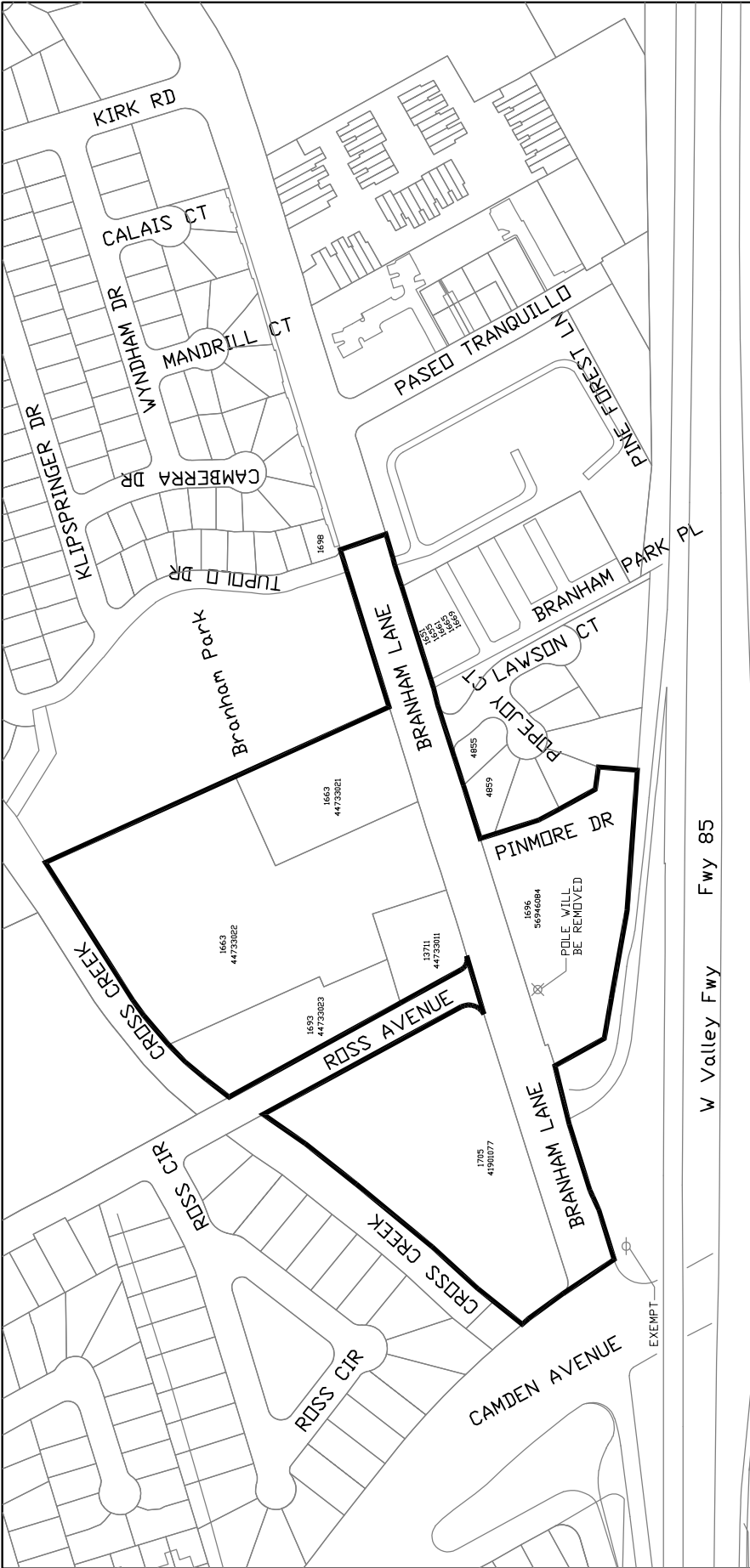
LEGEND:

-  RULE 20A BOUNDARY
- C - ELECTRICAL CONVERSION
-  - EX POLE TO BE EXEMPTED
- 1653 - ADDRESS
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CITY OF SAN JOSE
SAN FELIPE ROAD
UNDERGROUND UTILITY DISTRICT



NOT TO SCALE

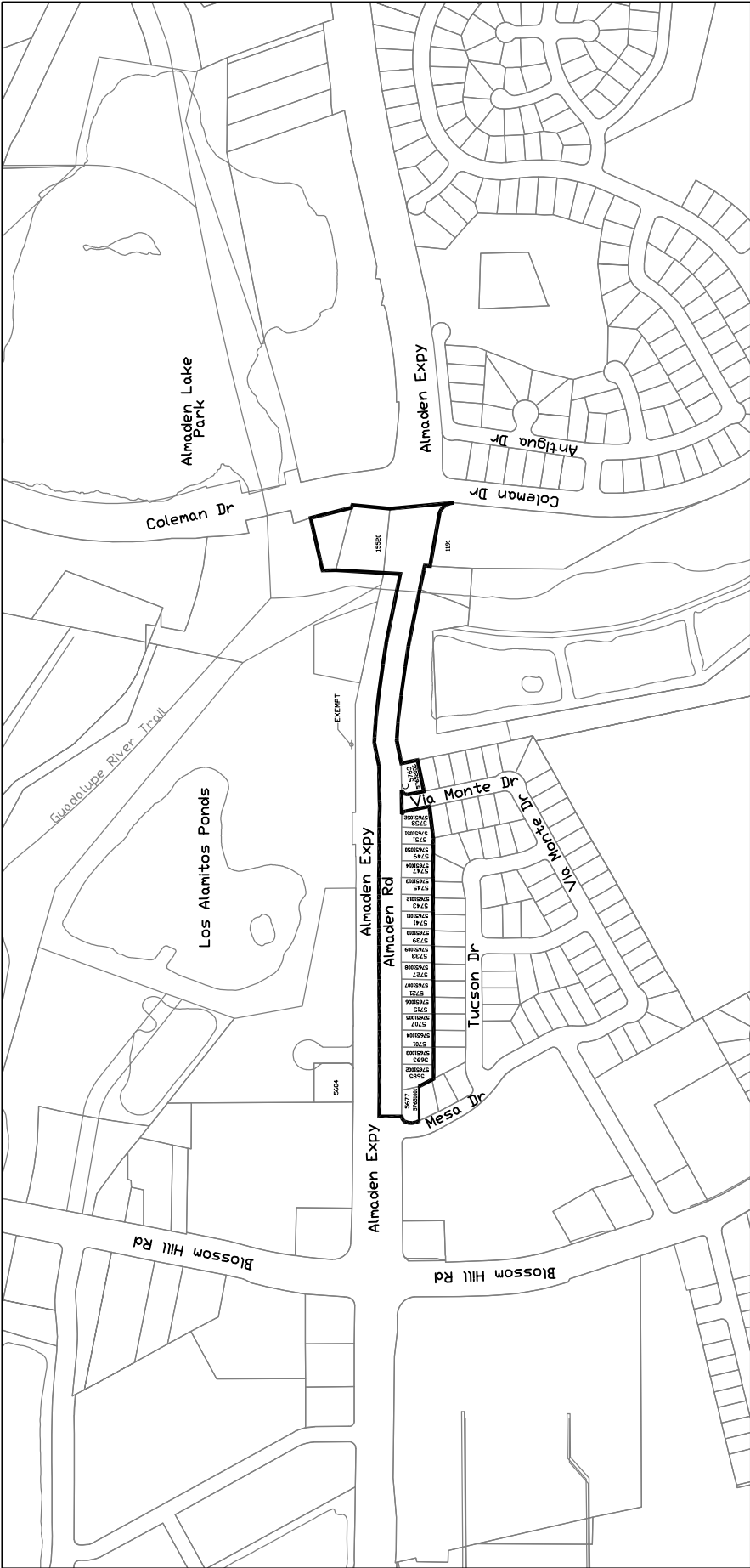


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- RULE 20A BOUNDARY
- C - ELECTRICAL CONVERSION
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- 1653 - ADDRESS
- 43405012 - APN

CITY OF SAN JOSE
BRANHAM LANE
UNDERGROUND UTILITY DISTRICT






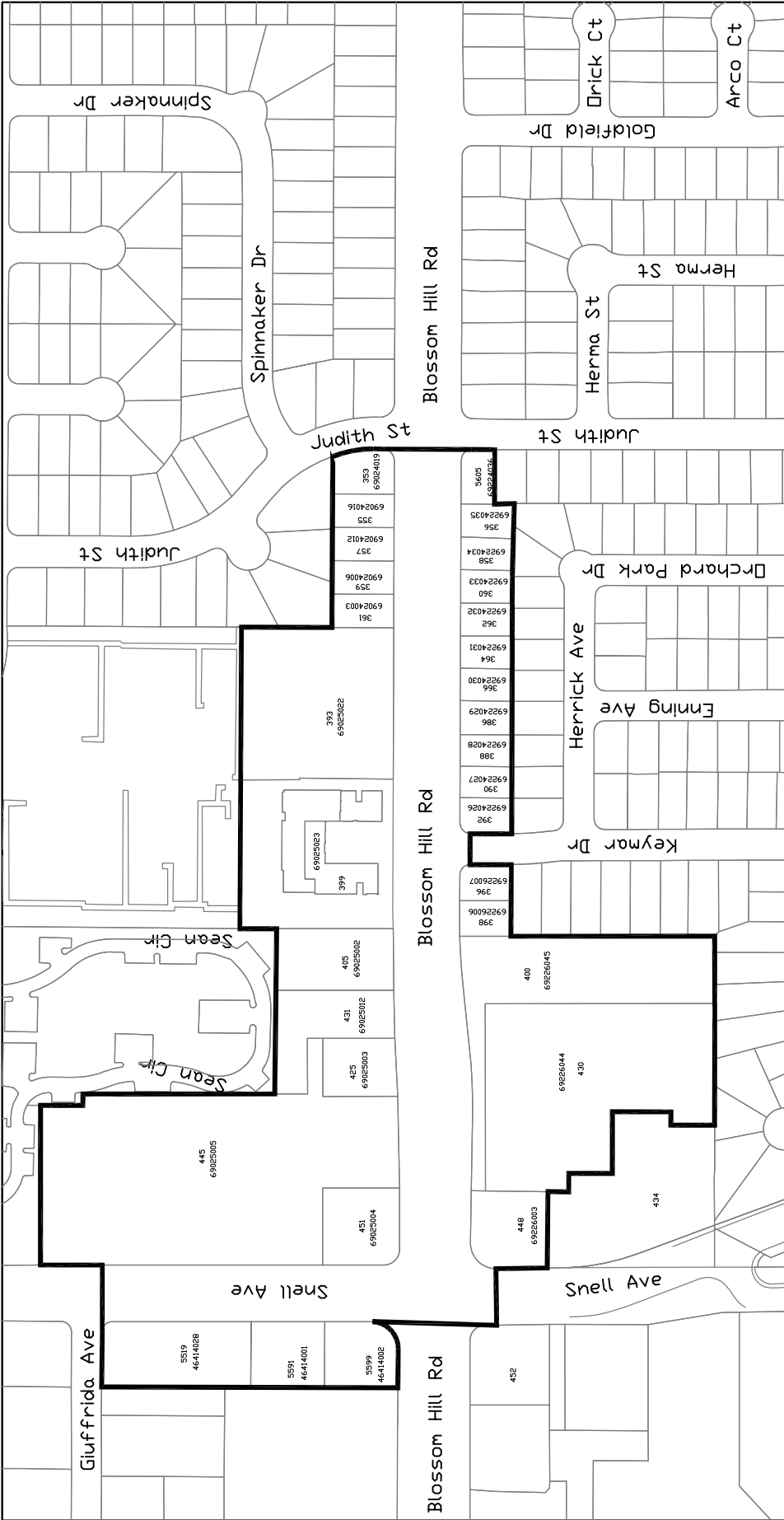
CITY OF SAN JOSE

ALMADEN ROAD, ALMADEN EXPRESSWAY, AND COLEMAN ROAD UNDERGROUND UTILITY DISTRICT

LEGEND:

-  RULE 20A BOUNDARY
- C - ELECTRICAL CONVERSION
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RULE 20A BOUNDARY

C

ELECTRICAL CONVERSION

1653

ADDRESS

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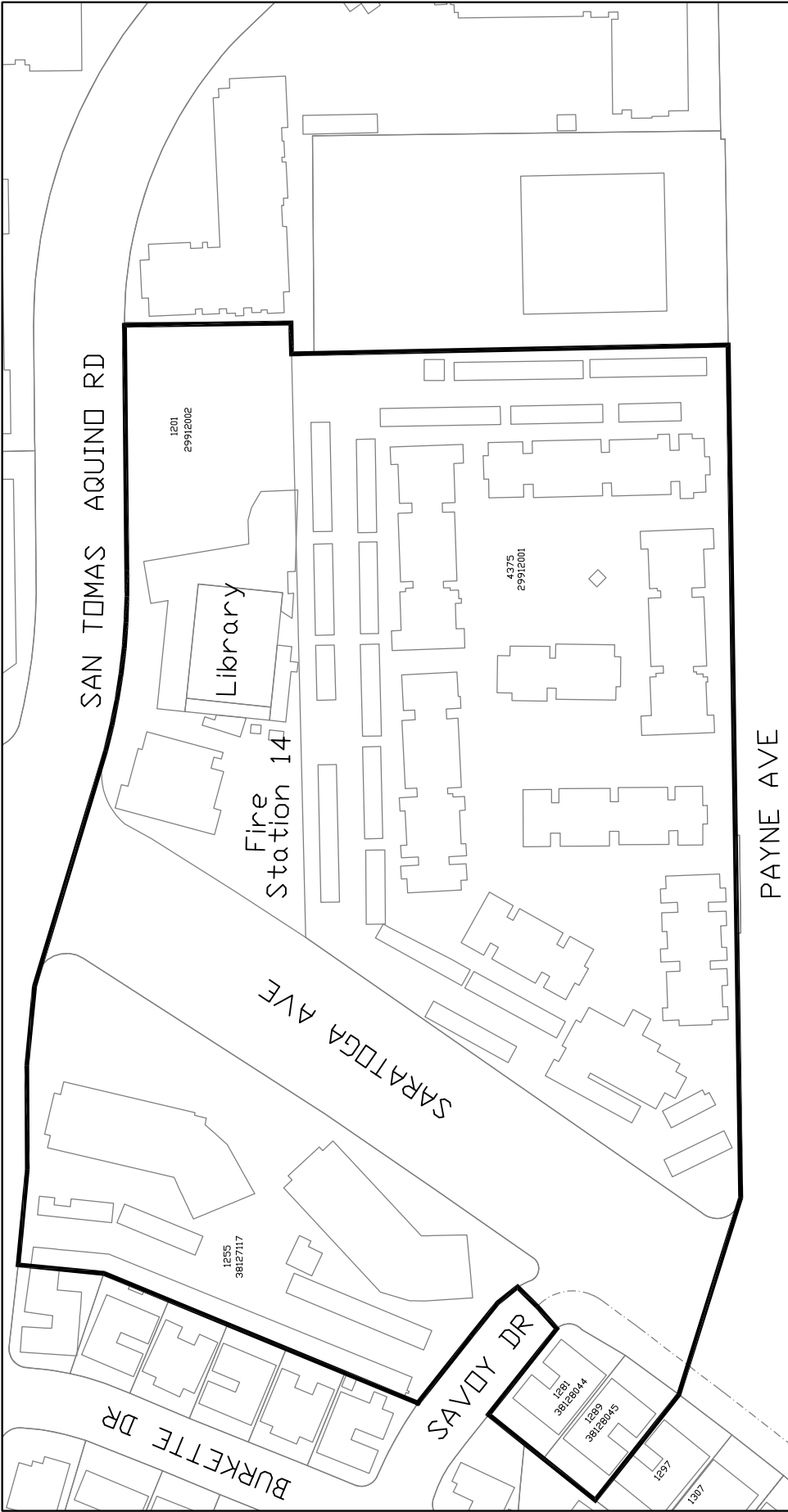
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CITY OF SAN JOSE

BLOSSOM HILL ROAD AND SNELL AVENUE

UNDERGROUND UTILITY DISTRICT

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CITY OF SAN JOSE

SARATOGA AVENUE

UNDERGROUND UTILITY DISTRICT

LEGEND:

RULE 20A BOUNDARY

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ELECTRICAL CONVERSION

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EX POLE TO BE EXEMPTED

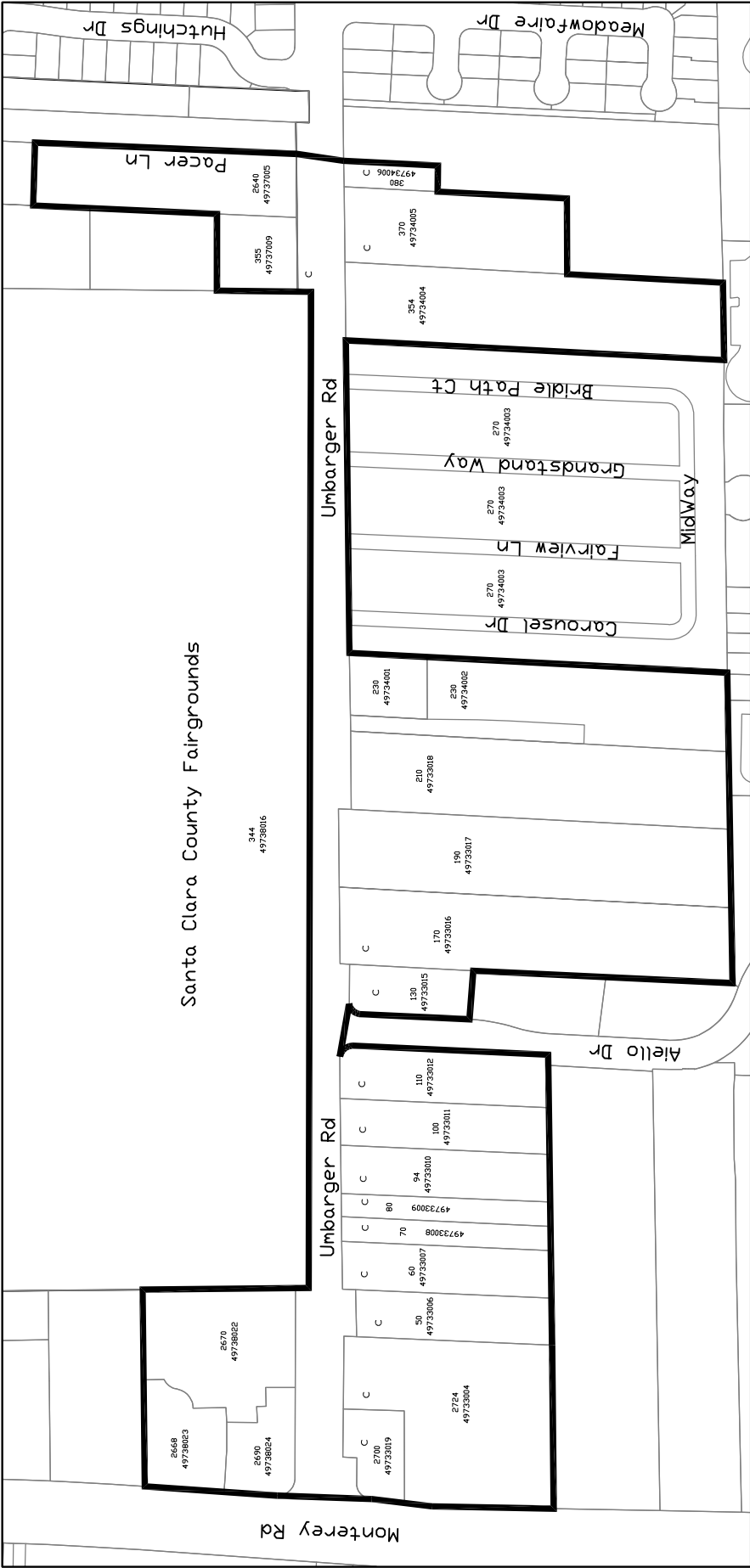
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LEGEND:

-  RULE 20A BOUNDARY
- C - ELECTRICAL CONVERSION
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- 1653 - ADDRESS
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CITY OF SAN JOSE
UMBARGER ROAD
UNDERGROUND UTILITY DISTRICT



NOT TO SCALE

COMMUNITY MEETING DATA

Proposed Underground Utility District	CD	Meeting Date	Approximate District Length (Linear Feet)	No. of Notices Sent	No. of Owners in Attendance	Percent Attended	Supportive	Percent of Length	Percent of Notices	Against	Percent of Length	Percent of Notices
BRANHAM LANE	9	2/12/2024	1,600	6	0	0%	0	0	0%	0	0	0%
ALMADEN ROAD ALMADEN EXPRESSWAY COLEMAN ROAD	10	2/12/2024	2,800	19	1	5%	1	2%	5%	0	0	0%
WHITE ROAD (Mount Pleasant High School)	5	2/13/2024	2,750	29	1	3%	0	0	0%	1	3%	3%
WHITE ROAD	5	2/13/2024	1,100	17	0	0%	0	0	0%	0	0	0%
STORY ROAD FELIPE AVENUE	7	2/13/2024	4,300	38	2	5%	2	1%	5%	0	0	0%
UMBARGER ROAD	7	2/13/2024	2,000	23	1	4%	1	9%	4%	0	0	0%
COYOTE ROAD	2	2/14/2024	2,900	25	3	12%	3	2%	12%	0	0	0%
BLOSSOM HILL ROAD SNELL AVENUE	2	2/14/2024	2,700	30	0	0%	0	0	0%	0	0	0%
WILLOW STREET	3	2/15/2024	2,100	42	1	2%	1	7%	2%	0	0	0%
E. SAN SALVADOR STREET	3	2/15/2024	2,500	24	1	4%	0	0	0%	1	3%	4%
EMPIRE STREET HENSLEY STREET	3	2/15/2024	4,500	102	2	2%	2	2%	2%	0	0	0%
SARATOGA AVENUE	1	2/16/2024	1,000	6	0	0%	0	0	0%	0	0	0%
N. 1ST STREET N. TAYLOR STREET	4	2/16/2024	4,200	36	4	11%	0	0	0%	4	12%	11%
SAN FELIPE ROAD	8	2/16/2024	9,500	11	0	0%	0	0	0%	0	0	0%