

ORDINANCE NO. 28357

**AN ORDINANCE OF THE CITY OF SAN JOSÉ ESTABLISHING A RULE
20A UNDERGROUND UTILITY DISTRICT ALONG WHITE ROAD,
BETWEEN ROSE AVENUE AND 150 FEET NORTH OF ALUM ROCK
AVENUE**

WHEREAS, by Resolution No. 74373, the City Council of San José set a Public Hearing on June 24, 2008 at 1:30 P.M., in the Council Chambers of the City of San José, City Hall, 200 E. Santa Clara Street, at the corner of Fourth and East Santa Clara Streets, San José, to ascertain whether an Underground Utility District should be established in the area designated as "WHITE ROAD UNDERGROUND UTILITY DISTRICT" (hereinafter called "District") and more fully described and shown on EXHIBITS A-1 and A-2 hereto; and

WHEREAS, written notice of the Public Hearing has been given pursuant to Section 15.24.050 of the San José Municipal Code, such hearing has been duly and regularly held, and all persons interested have been given a reasonable opportunity to be heard; and

WHEREAS, the criteria to form a district as set forth in San José Municipal Code Section 15.24.060 include:

- a. Removal of overhead wires and placement underground will eliminate an unusually heavy concentration of poles and overhead wires within the Proposed District; and
- b. Public streets or rights-of-way within the Proposed District are extensively used by the general public and carry a heavy volume of pedestrian or vehicular traffic; and

- c. Public streets or rights-of-way within the Proposed District adjoin or pass through a civic area or public recreation area or an area of unusual scenic interest to the general public; and

WHEREAS, pursuant to Section 15.24.060 of the San José Municipal Code, the City Council hereby finds and determines, based on evidence presented at the Public Hearing including the memorandum from the Director of Public Works dated June 2, 2008, and attached hereto as Exhibit A-3, that the above conditions exist within the proposed district, and public necessity, health, safety, and welfare require and it is in the general public interest that existing poles and overhead wires within the District be removed therefrom and thereafter prohibited and that wires and associated facilities within the District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat, power, telephone, telegraph, communication, television, or other similar or associated service be installed underground; and

WHEREAS, on April, 1, 2008, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15302 of the California Environmental Quality Act of 1970, as amended, under File No. PP08-042;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Jose:

SECTION 1. The City Council hereby declares that a certain area of the City of San Jose described and shown on EXHIBITS A-1 and A-2, attached hereto, made a part hereof, and incorporated herein by reference is established as an underground utility district to be designated "WHITE ROAD UNDERGROUND UTILITY DISTRICT" and orders and requires that existing poles and overhead wires within said District be removed therefrom by the operators of the utilities and thereafter prohibited and that wires and associated facilities within said District for transmitting, conducting, conveying, distributing, or supplying electricity for the purpose of providing light, heat,

power, telephone, telegraph, communication, television, or other similar or associated service be installed underground subject to all of the provisions and exceptions contained in Part 3, Chapter 15.24, of the San Jose Municipal Code.

SECTION 2. Existing poles and overhead wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be removed by the operators of the utilities no later than December 31, 2010.

Wires and associated facilities within the District for transmitting, conducting, conveying, distributing or supplying electricity for the purpose of providing heat, power, telephone, telegraph, communication, television or other similar or associated service shall be installed underground no later than December 31, 2010.

Persons owning any property as shown on the last equalized assessment roll served by overhead service drops which are extended from poles or spans located within the District must be ready to receive light, heat, power, telephone, telegraph, communications, television, or other similar or associated service by means of underground wires and facilities no later than December 31, 2010.

SECTION 3. The City Council does hereby request that the Pacific Gas & Electric Company and AT&T provide payment, computed pursuant to Rule 20 and Rule 32 respectively for the installation of no more than one hundred (100) feet (measured from the property line) of trenching, excavation, conduit installation, backfill, and surface restoration of each customer's individual service lateral to each qualifying premise affected by the District.

SECTION 4. The City Council does hereby request that the Pacific Gas & Electric Company pay, from the existing Rule 20A allocation, for the conversion of electric

service panels to accept underground service, up to \$1,500 per service entrance, excluding permit fees.

SECTION 5. Within twenty (20) days of the effective date of this ordinance, the Director of Public Works shall give written notice to all affected Utilities owning, possessing, or controlling any poles or overhead wires in the district and all owners and occupants of property affected by said District as required by Sections 15.24.150 and 15.24.160 of the San José Municipal Code.

SECTION 6. In lieu of a notice to the Utility Companies for disconnection of service pursuant to Section 15.24.140 of the San José Municipal Code, the Director of Public Works may give an additional notice to any noncompliant property owners or occupants in said District pursuant to Section 15.24.170 of the San José Municipal Code.

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SECTION 7. The Director of Public Works is hereby empowered to extend the time for any act required under this ordinance for the period of time and for the reasons set forth in Section 15.24.180 of the San José Municipal Code.

PASSED FOR PUBLICATION of title this 24th day of June 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

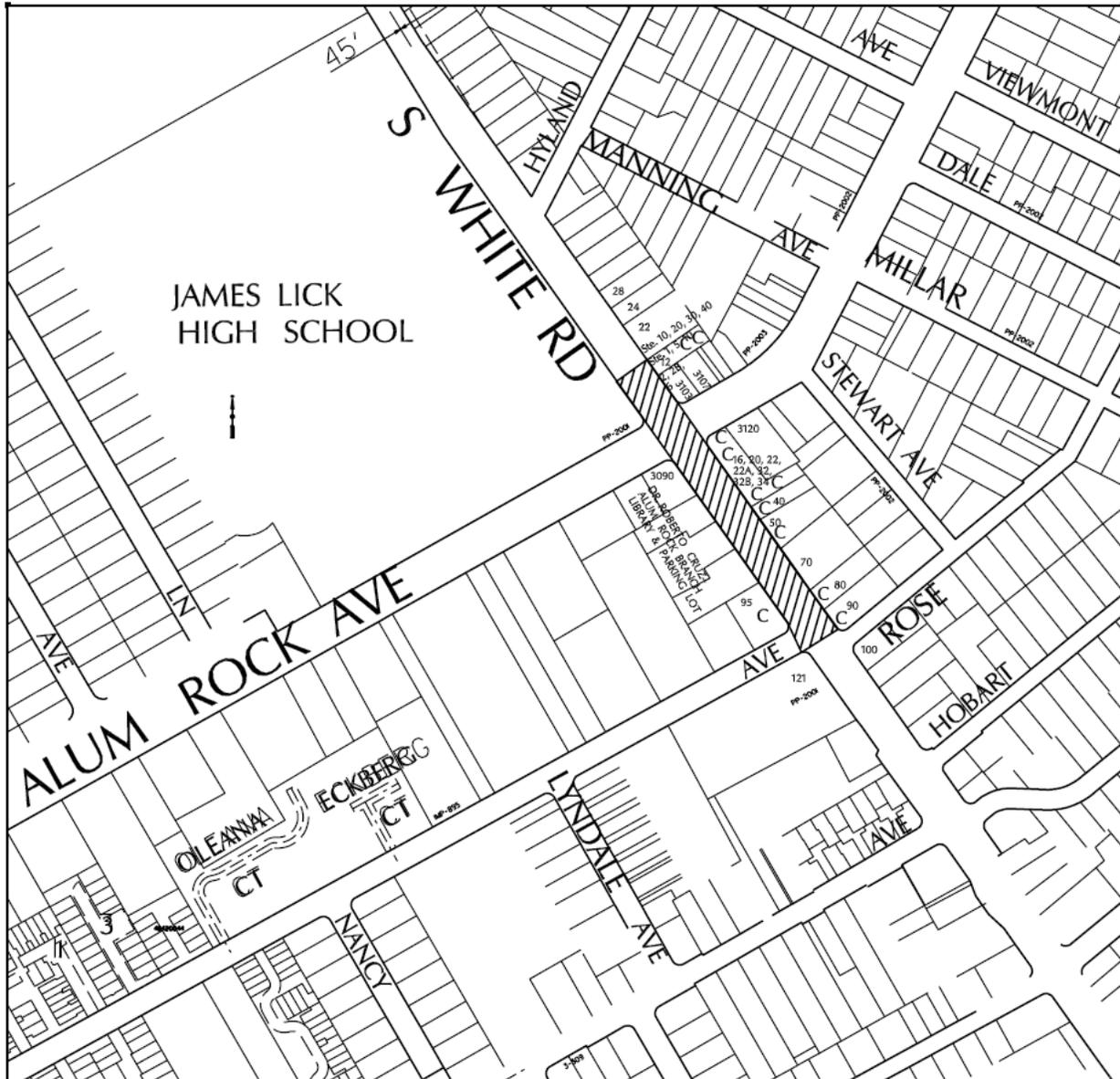
ATTEST:

LEE PRICE, MMC
City Clerk

Attachments:

- Exhibit A-1, Map
- Exhibit A-2, Description
- Exhibit A-3, Staff Memorandum

EXHIBIT A-1



CITY OF SAN JOSE

WHITE ROAD AT ALUM ROCK AVENUE
UNDERGROUND UTILITY DISTRICT

LEGEND

 RULE 20A BOUNDARY

C – ELECTRICAL CONVERSION

NOT TO SCALE

EXHIBIT A-2

DESCRIPTION OF PROPOSED BOUNDARY OF AN UNDERGROUND UTILITY DISTRICT ALONG WHITE ROAD, BETWEEN ROSE AVENUE AND 150 FEET NORTH OF ALUM ROCK AVENUE.

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, described as follows:

BEGINNING at a true point at the intersection of the westerly right-of-way line of White Road and the southerly right of way line of Rose Avenue;

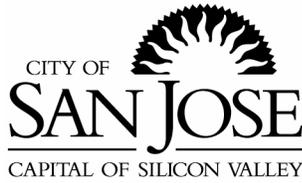
THENCE proceeding in a northwesterly direction 800'+/- along the westerly right-of-way line of White Road;

THENCE proceeding in a northeasterly direction 95'+/- perpendicular to the center line of White Road to a point of intersection with the easterly right-of-way line of White Road;

THENCE proceeding in a southeasterly direction 800'+/- along the easterly right-of-way line of White Road to a point of intersection with the northerly right-of-way line of Rose Ave;

THENCE proceeding in a southwesterly direction 100'+/- perpendicular to the centerline of White Road to the true point of beginning.

EXHIBIT A-3



COUNCIL AGENDA: 06-24-08
ITEM:

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

**SUBJECT: WHITE ROAD RULE 20A
UNDERGROUND UTILITY
DISTRICT**

DATE: 06-02-08

Approved

Date

COUNCIL DISTRICT: 5

RECOMMENDATION

Conduct a Public Hearing and adopt an ordinance to establish a combination Rule 20A Underground Utility District along White Road, between Rose Avenue and 150 feet north of Alum Rock Avenue.

OUTCOME

Approval of this ordinance will establish the White Road Underground Utility District in accordance with the San José Municipal Code. In addition, it will enable City staff to direct utility companies to begin design of the project. Establishment of this district will improve the appearance, pedestrian mobility and ease of utility equipment maintenance within the area described above.

EXECUTIVE SUMMARY

The proposed underground utility district, as specifically described above and depicted in Attachment A, will require utility companies to remove utility poles and aerial cables from the public right-of-way and install a new improved underground system. The proposed underground utility district is located along White Road, between Rose Avenue and 150 feet north of Alum Rock Avenue. This proposed project will compliment the newly constructed Dr. Roberto Cruz-Alum Rock Library Branch, and other improvements by businesses and residents in the neighborhood. The project will be funded by utility company funds designated by Rules 20A and

32 of the California Public Utilities Commission (CPUC) and the City's franchise agreement with Comcast.

BACKGROUND

Through Rule 20A, the 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 CPUC also requires AT&T, through Rule 32, to set aside funds for undergrounding its facilities where PG&E has been required to underground. Comcast is required by its agreement with the City to budget funds to similarly participate in projects where the PG&E Rule 20A and AT&T Rule 32 funds are programmed for undergrounding.

The proposed White Road Rule 20A Underground Utility District (District) is included in the 2007/2008 – 2012/13 Rule 20A and Rule 20B (In-Lieu Fee) Underground Utility Program Workplan approved by Council in April 2008. It meets criteria approved by the CPUC and the criteria established by the City in 1978 to complete projects that front city facilities, such as parks, libraries, and fire stations.

ANALYSIS

On May 21, 2008, notices of a public hearing were mailed to all utility companies, owners of property, and owners adjacent to the proposed District.

A schedule for establishment and implementation of the proposed Underground Utility District is presented in Attachment B.

EVALUATION AND FOLLOW-UP

Upon City Council's approval of the ordinance at the public hearing, utility companies will begin design of the project. Once the design is near completion, Public Works will mail electrical service conversion packets to all property owners that need their electrical service panel converted to receive service from an underground system. Public Works and utility companies will closely coordinate design and electrical conversion work with the property owners. In addition, continuous coordination will occur during the design and construction phases of the project with the adjacent property owners and other stakeholders, such as the San José Redevelopment Agency.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The action requested by Council does not meet any of the three criteria listed above, but the following outreach will be conducted as part of Section 15.24 of the Municipal Code for the purposes of establishing underground districts.

A community meeting was held on April 1, 2008, to inform the public of this undergrounding project. The property owners attending were concerned with the cost of conversions, process to upgrade services, and phasing of construction (service interruptions). Staff provided information on 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 were appropriately incorporated into the undergrounding design. Upgrades to existing panels, if desired by the property owner, would require additional non-reimbursable costs.

Property owners were assured that the utilities would minimize impacts of service interruptions and provide approximately one-month notification of service interruptions. It was explained that power interruptions typically last 3 to 4 hours and other utility interruptions are shorter duration. In general, the attendees supported the undergrounding and were satisfied with the responses from staff.

Upon Council's approval of the ordinance at the public hearing, Public Works will mail a notice of adoption of ordinance to all utility companies, and property owners of property adjoining the proposed District.

Prior to the start of construction activities, PG&E will place "Door Hanger" construction notices on properties adjoining the proposed District and those affected by construction.

This memorandum will be posted to the City's website for the June 24, 2008 Council agenda. On June 17, 2008, staff will transmit a supplemental memo should any comments or protest be received for consideration at the public hearing.

COORDINATION

The establishment of the proposed District and project schedule has been coordinated with the Department of Transportation, PG&E, AT&T, Comcast, Caltrans, County of Santa Clara, City Manager's Budget Office, and Planning, Building and Code Enforcement Department. The required ordinance has been reviewed by the City Attorney's Office.

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Contract	2007-2008 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
Remaining Project Costs			\$930,000			
Current Funding Available						
416	4654	Underground Utility Program	\$910,000	N/A	Capital, V-19	N/A
416	5147	Underground Utility Admin. (20B)	\$130,000	N/A	Capital, V-27	N/A
416	4786	Underground Utility Admin. (20A)	\$250,000	N/A	Capital, V-26	N/A
429	5063	Underground Utilities City Conversions	\$418,000	N/A	Capital V-1156	10/16/07, Ord. No. 28143
Total Current Funding Available			\$1,708,000			

CEQA

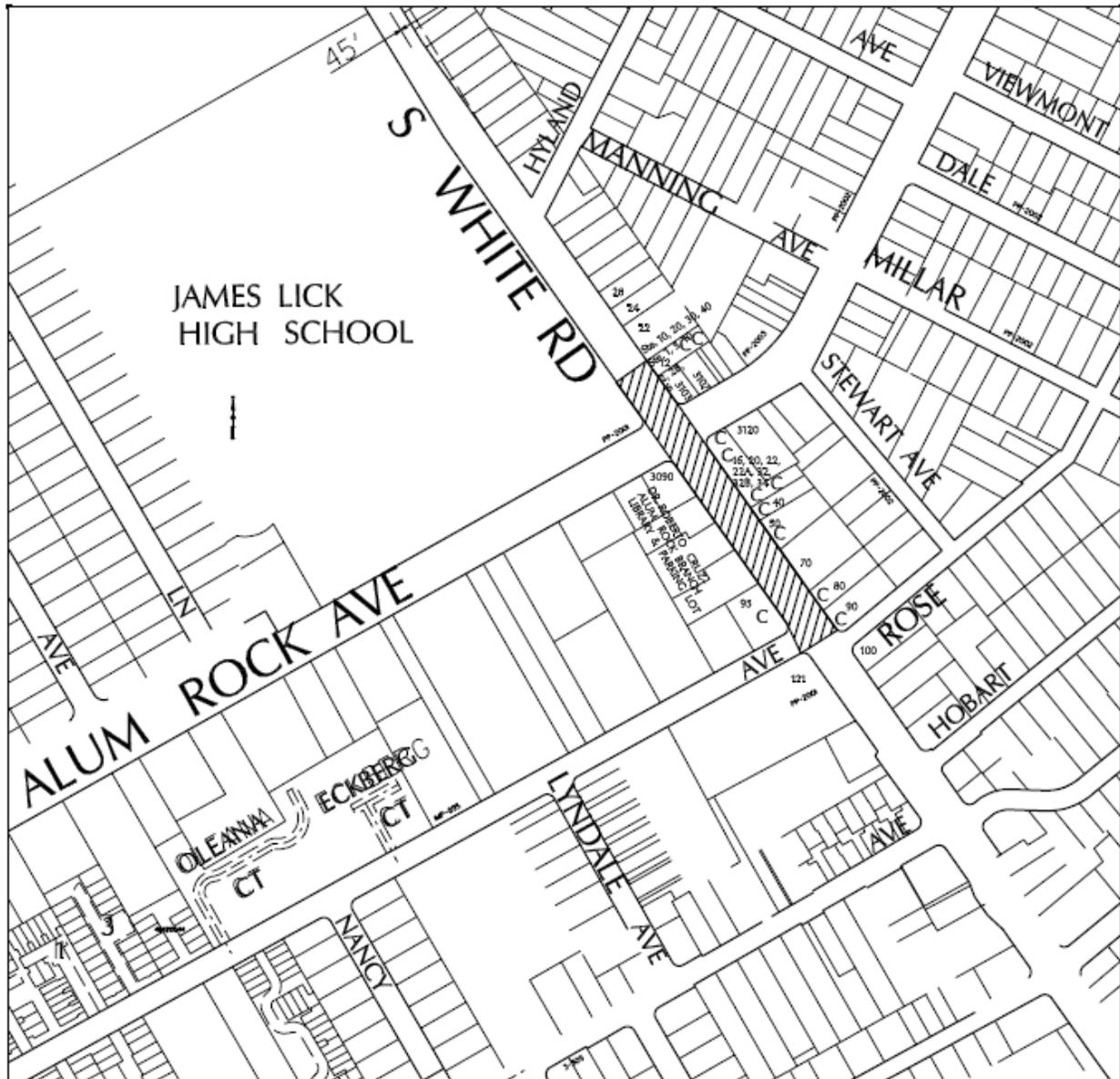
CEQA: Exempt, PP08-042.

KATY ALLEN
 Director, Public Works Department

For questions please contact TIMM BORDEN, DEPUTY DIRECTOR, at 408-535-8300.

MO:SK:og
 (White Road UndergroundUtility DistrictOrd.doc/util)
 Attachments

ATTACHMENT A



CITY OF SAN JOSE

WHITE ROAD AT ALUM ROCK AVENUE
UNDERGROUND UTILITY DISTRICT

LEGEND

 RULE 20A BOUNDARY

C – ELECTRICAL CONVERSION

NOT TO SCALE

ATTACHMENT B

UNDERGROUND UTILITY DISTRICT along White Road, between Rose Avenue and 150 north of Alum Rock Avenue.

Establishment Schedule

May 20, 2008	City Council adopts a resolution setting a time and place for a Public Hearing.
May 21, 2008	Director of Public Works mails a notice of Public Hearing to all adjacent property owners.
June 16, 2008	Director of Public Works transmits a report of comments and/or protests received for consideration at the Public Hearing.
June 24, 2008	City Council conducts a Public Hearing and at its conclusion approves an Ordinance establishing White Road Rule 20A Underground Utility District

Project Implementation Schedule

August 2008	Utility companies begin design of substructure, conduit, vaults, electric and cable facilities.
December 2008	Utilities obtain environmental clearances.
July 2009	Construction starts
December 2010	Utility companies complete connections and remove overhead wires and poles.