



JOHNSON COUNTY

Department of Planning and Zoning
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Franklin, Indiana 46131

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SPECIAL MEETING AGENDA

Johnson County Board of Zoning Appeals
March 29th 2022, 6:00 PM
Public Auditorium, West Annex Building
86 West Court Street, Franklin, Indiana

CALL TO ORDER

ROLL CALL

PUBLIC HEARINGS

-CONTINUED PETITIONS

None.

-NEW PETITIONS

SP-SCW-1-2022 through SP-SCW-28-2022 - TeleCAD on behalf of Verizon Wireless

Various Locations in the White River Township

Verizon Wireless has submitted a special exception for a waiver to install a new wireless support structure within an area defined as an Underground and Buried Utilities District per Johnson County Resolution 2017-R-3.

ADJOURNMENT

Staff Report

CASE NUMBERS: SP-SCW-1-2022 THROUGH SP-SCW-28-2022
CASE NAME: VERIZON WIRELESS; AGENT: TELECAD WIRELESS

This report addresses 28 separate land use petitions pertaining to 28 separate wireless communications poles. For simplification purposes, this report designates each pole with a case letter.

As of March 22, 2022, two automatic continuance requests have been submitted to the Planning and Zoning Office. Those requests were for cases SP-SCW-2-2022 and SP-SCW-3-2022. Those cases will be heard at the next available meeting on April 26th 2022.

PROPERTY DESCRIPTION

List of all 28 proposed locations are on page 5.

REQUESTS

All cases have the same request, a waiver, through the Special Exception process, from Resolution 2017-R-3 that prohibits the placement of all poles, overhead lines, and associated overhead structures used or useful in supplying electric, communication, or similar and associated services within the County's rights-of-way or granted utility easements.

Verizon Wireless has requested to place 43-foot tall black metal poles in the residential subdivision in the public right-of-way. All proposed poles are located in a subdivision where all utilities are underground.

Codes and Ordinances

Indiana Code 8-1-32.3 limits the local power to regulate the placement of wireless support structures.

IC 8-1-32.3-26 (a)(1) *The placement of a small cell facility and the associated supporting structure in the public right-of-way is considered a permitted use and is exempt from local zoning review if the total height of the structure supporting the small cell facility does not exceed the greater of (A) fifty feet or the height of any utility pole...within 500 feet of the proposed small cell facility...*

However, IC 8-1-32.3-15 (c) *...a permit authority may prohibit the placement of a new utility pole or a new wireless support structure in a right-of-way within an area that is designated strictly for underground or buried utilities if all of 1 through 5 apply...*

Resolution 2017-R-3, adopted April 28th, 2017, established underground and buried utility districts in the unincorporated areas of Johnson County. The underground and buried utility districts are only for major residential subdivisions where no above-ground wireless support structures, utility poles, and superstructures exist in the area.

The staff had received applications for wireless support structures for a 5G Small Cell pole in 28 locations. These 28 locations are located in a platted major subdivision where all utilities are underground. The applications were denied based on the Resolution. Per the Resolution, the applicant may seek a waiver of this prohibition from the Johnson County Board of Zoning Appeals by using the established forms and procedures for seeking a Special Exception.

Addition Pole Details

All 28 poles are designed to be 43-foot tall black metal poles; pictures are found later in the staff report. Twenty-seven poles will have three lights included. Three of the poles would replace an existing street light/street sign pole. The replacement would have a similar light style as the existing street lights in the neighborhood. However, these existing street light poles are not owned by the County, and the applicant was made aware that they would need permission for the HOA to replace that street light pole. TeleCAD has stated that Verizon will cover the electric bill and maintenance of any street light that is part of the small cell pole structure. Some of the poles are located in subdivisions that have no street lights. Street light details are included on the table of pole locations on page 5.

Highway Comments

Since all proposed poles are located in the Johnson County public right-of-way, the Highway Department has reviewed the locations of all poles. Their comments can be found on page 11.

STAFF RECOMMENDATION

Staff recommends denial of these waiver requests.

Resolution 2017-R-3 states that waivers are to be treated as a special exception. The staff has provided Staff Findings of Facts for a special exception below if it is decided to adopt findings with the Board's decision.

Findings of Fact: Staff Analysis

3. State Requirement: The use shall be specifically identified as a special exception in this Ordinance for the zoning district in question.

Not applicable - Resolution 2017-R-3 expresses a wireless support structure must seek a waiver via special exception process. Small Cell Facilities are not listed as a special exception in any zoning districts.

2. State Requirement: The Special Exception can be served with adequate utilities, access roads, drainage, and other necessary facilities.

The wireless support structure is within a public right of way where all adequate utilities are or can be available.

3. State Requirement: The special exception shall not involve any element or cause any conditions that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with any and all design development standards for the use identified in this Ordinance.

Johnson County does not have any adopted neighborhood design standard for wireless facilities. However, the wireless support structures do not meet the minimum distance from a traveled way, as stated in a memo from the Highway Department.

4. State Requirement: The Special Exception shall be sited, oriented, and landscaped to produce a harmonious relationship to buildings and grounds to adjacent buildings and property.

The wireless support structures are not in a harmonious relationship with the residential neighborhood as no other utility structures exist in the area. All utilities and support structures are buried underground.

5. State Requirement: The Special Exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

The proposed locations of the wireless support structures are in underground and buried utility districts. The above ground structure is not consistent with the environment of the neighborhood because no other utility structures exist in the area.

6. State Requirement: The Special Exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.

Not applicable - the wireless support structures do not create a parking need.

7. State Requirement: The Special Exception shall preserve the purpose of the Zoning Ordinance, and shall not interfere substantially with the Comprehensive Plan.

The request will not preserve the purpose of the Resolution of Underground and Buried Utilities District.

GENERAL INFORMATION

Petitioner: Emily Smith – TeleCAD on behalf of Verizon Wireless
1961 Northpoint Blvd. Suite 130
Hixson, TN 37343

Owner: Johnson County, IN

Zoning: R-1 and R-2, Single Family Residential

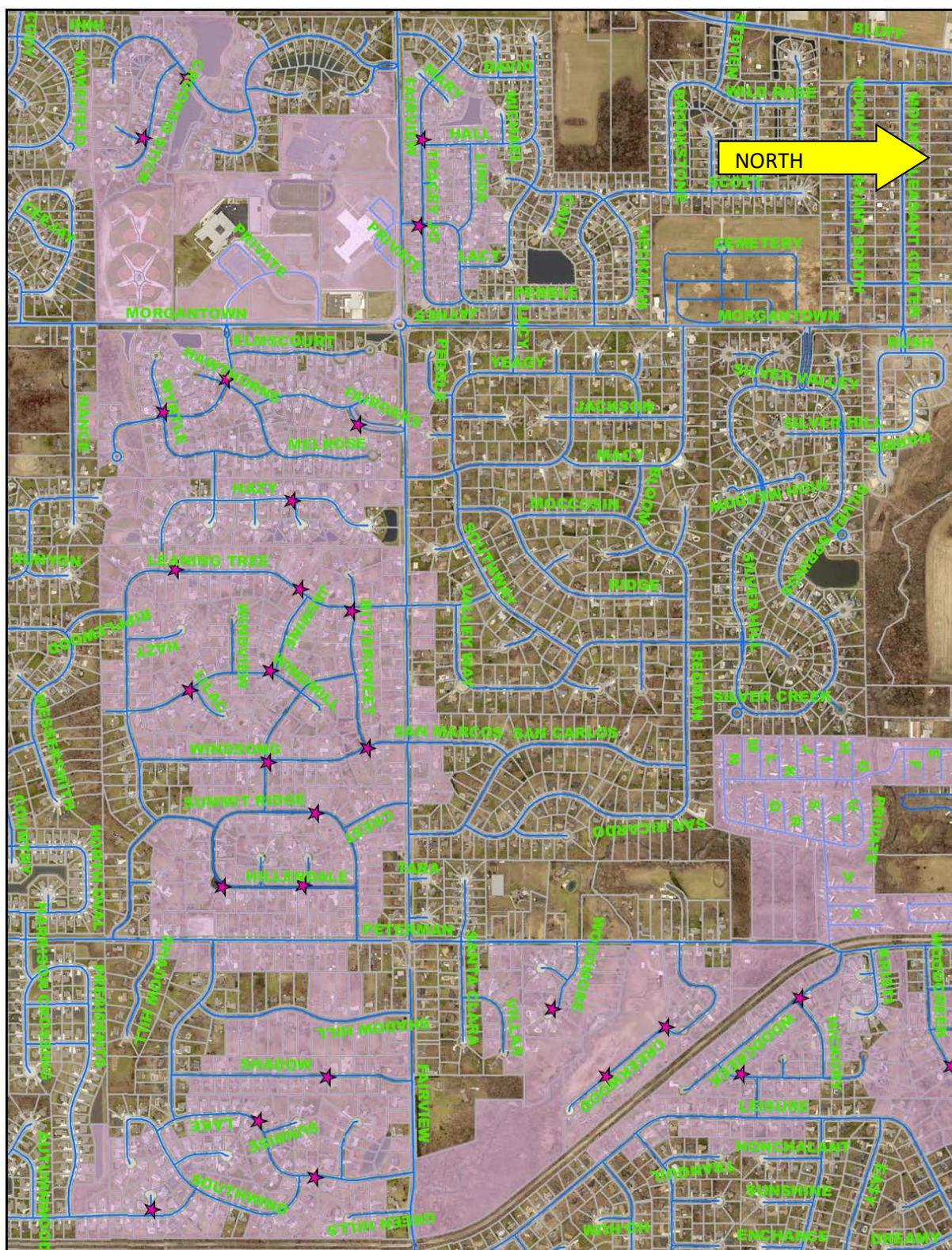
Land Use: Right-of-way
Future Land Use Suburban Residential

-MNH

LIST OF 28 SMALL CELL FACILITIES

Johnson County Case #	Near By Residential Address	Subdivision	Proposed Street Light	Existing Street Light in Sub.
SP-SCW-1-2022	354 Melrose Lane	Fairoaks	standard street light	Street Light - Lantern
SP-SCW-2-2022	4820 Myrtle Lane	Fairoaks	standard street light	Street Light - Lantern
SP-SCW-3-2022	4927 Auburn Ford	Fairoaks	standard street light	Street Light - Lantern
SP-SCW-4-2022	73 Hill Ct.	Fairview Heights	no street light	No street lights
SP-SCW-5-2022	229 Hillendale Dr	Fairview Heights	standard street light	No street lights
SP-SCW-6-2022	317 Summit Ridge	Fairview Heights	standard street light	No street lights
SP-SCW-7-2022	84 Racquet Court	Innisbrooke	Lantern Light- Replacement	Street Light - Lantern
SP-SCW-8-2022	5398 Crooked Stick Court	Innisbrooke	Lantern Light- Replacement	Street Light - Lantern
SP-SCW-9-2022	251 Hazy Lane	Makena Ridge	Lantern Light- Replacement	Street Light - Lantern
SP-SCW-10-2022	5191 Tracey Jo Road	Pebble Run Sec 2	standard street light	No street lights
SP-SCW-11-2022	412 Hall Drive	Pebble Run Sec 3	standard street light	No street lights
SP-SCW-12-2022	391 Shadow Road	Shadow Hill	standard street light	
SP-SCW-13-2022	60 N Southwind Lane	Southwind Estate	standard street light	Street Light - Lantern
SP-SCW-14-2022	313 Lake Dr	Southwind Estate	standard street light	Street Light - Lantern
SP-SCW-15-2022	188 Lake Dr	Southwind Estate	standard street light	Street Light - Lantern
SP-SCW-16-2022	322 Leaning Tree	Windsong	standard street light	No street lights
SP-SCW-17-2022	296 N Windmill Trail	Windsong	standard street light	No street lights
SP-SCW-18-2022	4359 Bittersweet Lane	Windsong	standard street light	No street lights
SP-SCW-19-2022	4070 Rolling Trails Road	Windsong	standard street light	No street lights
SP-SCW-20-2022	373 Windsong Lane	Windsong	standard street light	No street lights
SP-SCW-21-2022	135 N Windmill	Windsong	standard street light	No street lights
SP-SCW-22-2022	122 Leaning Tree Road	Windsong	standard street light	No street lights
SP-SCW-23-2022	1270 Woodcreek	Wood Creek Estates	standard street light	No street lights
SP-SCW-24-2022	160 Hickory Ct.	Wood Creek Estates	standard street light	No street lights
SP-SCW-25-2022	820 Wood Creek Place	Wood Creek Estates	standard street light	No street lights
SP-SCW-26-2022	3913 Creekwood Dr	Woodcreek Terrace	standard street light	No street lights
SP-SCW-27-2022	3714 Creekwood Dr	Woodcreek Terrace	standard street light	No street lights
SP-SCW-28-2022	3953 Woodmore Drive	Woodridge Estates	standard street light	Street Light - Lantern

OVERALL MAP OF 28 LOCATIONS



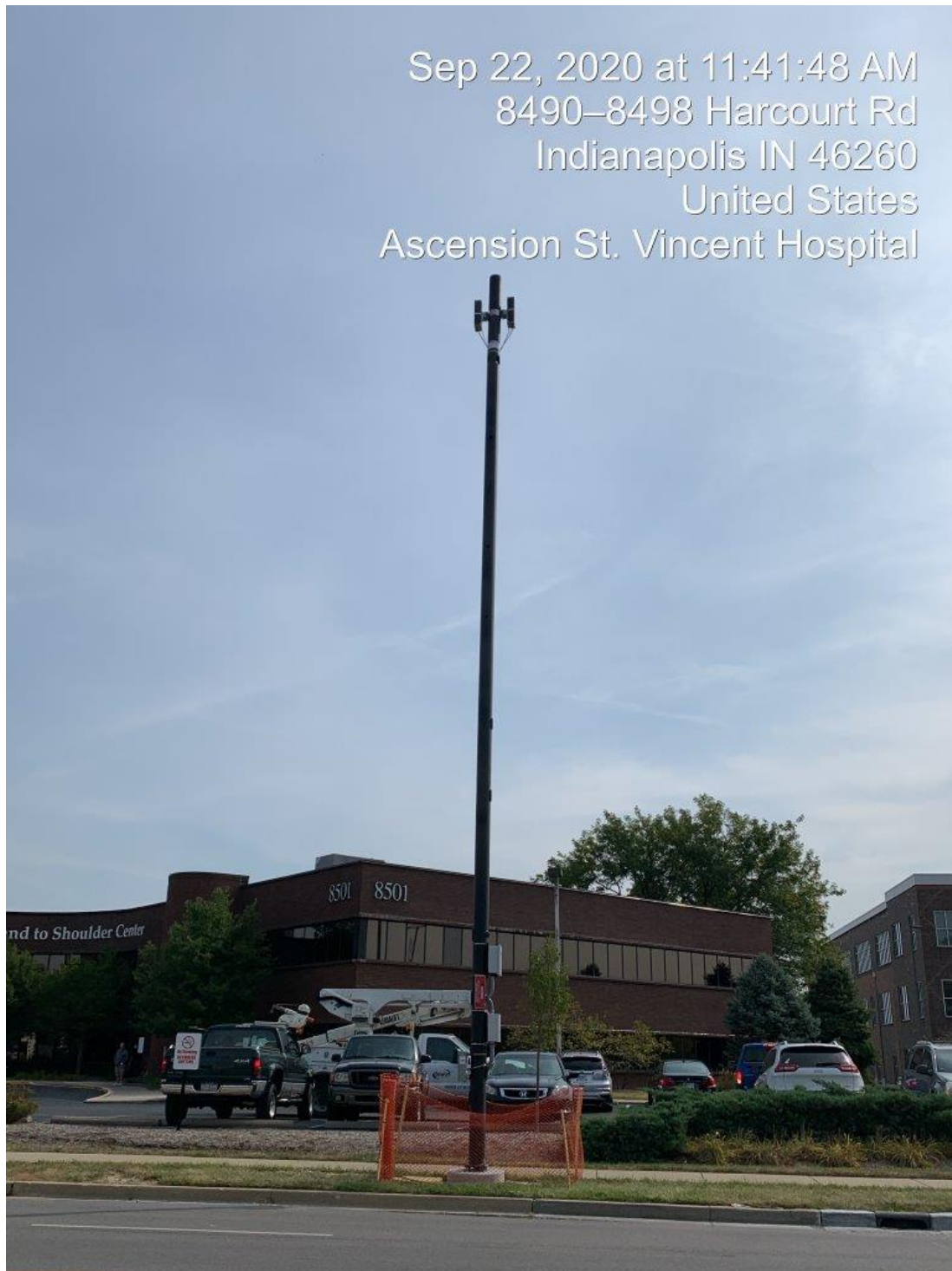
EXAMPLES OF EXISTING SMALL CELL FACILITIES 1 OF 3



EXAMPLES OF EXISTING SMALL CELL FACILITIES 2 OF 3



EXAMPLES OF EXISTING SMALL CELL FACILITIES 3 OF 3



PETITIONER'S FINDINGS OF FACTS

FINDINGS OF FACT, SPECIAL EXCEPTION

JOHNSON COUNTY BOARD OF ZONING APPEALS

1. The use shall be specifically identified as a special exception in this Ordinance for the zoning district in question because:

Per Resolution No. 2017-R-3 of the Board of Commissioners of Johnson County, any request by a communication provider to place a new small cell facility within the right of way in and contiguous to all major residential subdivisions within the unincorporated Johnson County requires a special exception.

2. The special exception can be served with adequate utilities, access roads, drainage and other necessary facilities because:

The proposed small cell facilities will be served by utilities which already exist in the area, or which can be brought to the proposed location within existing right of way or utility easements. The improvements necessary to support the proposed small cell facility will be installed in accordance with all applicable local, state and federal laws.

3. The special exception shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with any and all design development standards for the use identified in this Ordinance because:

This facility design and use meets all Federal, State, FAA and FCC safety guidelines. The proposed small cell facilities will be located in a way which does not interfere with clear sight triangles or other impairments to the utilization of the right of way and is located in a way to best serve users who desire reliable wireless coverage and high speed internet service in residential districts.

4. The special exception shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and property because:

The proposed small cell installation is not of any greater height than permitted by applicable Indiana statute. The nearby residential districts have not adopted neighborhood specific guidelines regarding preferred locations and aesthetic guidelines and therefore efforts have been made to propose similar design and materials to other utility poles and light poles in the public right of way.

5. The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood because:

The proposed small cell installation is not of any greater height than permitted by applicable Indiana statute. The nearby residential districts have not adopted neighborhood guidelines regarding preferred locations and aesthetic guidelines and therefore efforts have been made to propose similar design and materials to other utility poles and light poles in the public right of way.

6. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood because:

The proposed installation is an unmanned small cell facility located within the public right of way. After completion of construction, the facility will have visits only necessary for repairs or maintenance and will therefore not impact traffic patterns or traffic volume in any meaningful way.

7. The special exception shall preserve the purpose of this Ordinance, and shall not interfere substantially with the Comprehensive Plan because:

The use is a permitted use in the public right of way. The proposed small cell facility will deliver the latest generation of wireless service and high speed internet access in a way which allows and promotes the ongoing and orderly development of communities. Prohibiting the small cell facility as proposed will materially inhibit the delivery of this technology to the end users of the service.

The installation, use and maintenance of the proposed small cell facility will be in conjunction with all local, state and federal regulations regarding the installation of this technology in the public right of way.

JOHNSON COUNTY HIGHWAY DEPARTMENT COMMENTS



Johnson County Highway Department

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Lucas M. Mastin
Highway Supervisor

Daniel E. Johnston, P.E.
Highway Engineer

Date: March 22, 2022
To: Michele Hansard, AICP, Director, Johnson County Planning & Zoning
From: *DEJ* Daniel Johnston, P.E., Highway Engineer
cc: Richard R. Hoover, P.E. Johnson County Planning & Zoning

Subject: Verizon Wireless 5G small cell tower variance requests

The Highway Department has reviewed the variance requests for 28 small cell tower installations within neighborhoods for the March 29, 2022 BZA meeting.

First and foremost, we believe Board of Commissioners Resolution 2017-R-3 establishing an underground and buried utilities district is applicable to these variance requests and consistent with the provisions of IC 8-1-32.3. As such, we do not support these 28 waiver requests.

However, if waivers are granted, the Highway Department provides the following comments:

- 1) Indiana Design Manual Chapter 49 establishes minimum clear zone widths from the edge of the traveled way intended to provide obstruction-free recover area for vehicles. In the case of these 28 waiver requests, with design speeds less than 40 mph, ADT assumed less than 750 vpd, and 6:1 or flatter slopes, the pole locations need be a minimum of 7-10' from the edge of the traveled way. None of the proposed pole locations meet this minimum distance.
 - a. This measurement should be taken from the nearest edge of travel way. Some of the exhibits provided by the applicant show measurements from a point that is not the nearest edge of traveled way.
 - b. If complying with the 7-10' causes conflicts with existing sidewalks, the vendor needs to provide maximum offset from the travel lane without impacting the sidewalk.
- 2) Three of the proposed poles (1187, 1223, 1327) replace existing light poles within a neighborhood. Johnson County does not maintain these light poles, they are installed and serviced by the neighborhood's HOA. The Highway Department cannot grant permission to modify these light poles; this must come from the HOA.
- 3) Any pole locations granted waiver requests would require approval of a Highway Department Utility Permit to finalize installation location within the right-of-way and adherence to clear zone requirements, with the approved permit provided to Planning and Zoning prior to final approval and installation. Applications for these 28 locations have already been received.
- 4) Pole locations must be compliant with the respective fire department's clearance requirements from fire hydrants. The petitioner needs to contact the local fire department to confirm the minimum clearance.

IMPORTANT LINKS

Applications for each case can be found here

https://co.johnson.in.us/egov/apps/document/center.egov?eGov_searchTopic=149&eGov_searchType=30

Google Street Views of each location

Johnson County Case #	Near By Residential Address	Link
SP-SCW-1-2022	354 Melrose Lane	https://goo.gl/maps/3MjyqXspJZi4X9Ja9
SP-SCW-2-2022	4820 Myrtle Lane	https://goo.gl/maps/zoUX1LmdZjZG62K2A
SP-SCW-3-2022	4927 Auburn Ford	https://goo.gl/maps/fDQJgWiUrvEs7KVg8
SP-SCW-4-2022	73 Hill Ct.	https://goo.gl/maps/ZrNkVNs67nVWXNg8
SP-SCW-5-2022	229 Hillendale Dr	https://goo.gl/maps/jte2jG4BSWVke2pz9
SP-SCW-6-2022	317 Summit Ridge	https://goo.gl/maps/vY7fzXvfvyYMGp6x8
SP-SCW-7-2022	84 Racquet Court	https://goo.gl/maps/SuGc1VQKyXeAHcX87
SP-SCW-8-2022	5398 Crooked Stick Court	https://goo.gl/maps/MzFMWzRJZnrXScA7
SP-SCW-9-2022	251 Hazy Lane	https://goo.gl/maps/ykiCjZYXTRMEEv9
SP-SCW-10-2022	5191 Tracey Jo Road	https://goo.gl/maps/AsASny8R7gqsZUrV6
SP-SCW-11-2022	412 Hall Drive	https://goo.gl/maps/cF49TjhC4ff4eEqY8
SP-SCW-12-2022	391 Shadow Road	https://goo.gl/maps/JiPfdqohn7AP3NA76
SP-SCW-13-2022	60 N Southwind Lane	https://goo.gl/maps/JiPfdqohn7AP3NA76
SP-SCW-14-2022	313 Lake Dr	https://goo.gl/maps/vXvFxXge5nMpoKVR8
SP-SCW-15-2022	188 Lake Dr	https://goo.gl/maps/7uJvpST4rc1Fr9c7A
SP-SCW-16-2022	322 Leaning Tree	https://goo.gl/maps/T8ePnUWHnVnL8nAb9
SP-SCW-17-2022	296 N Windmill Trail	https://goo.gl/maps/LrMQyVVzZBLUJDco7
SP-SCW-18-2022	4359 Bittersweet Lane	https://goo.gl/maps/RHHLCoohiVv9FRp27
SP-SCW-19-2022	4070 Rolling Trails Road	https://goo.gl/maps/U9PLBXDs48DSDQUV9
SP-SCW-20-2022	373 Windsong Lane	https://goo.gl/maps/pvmv9fNbL5seZ3iD9
SP-SCW-21-2022	135 N Windmill	https://goo.gl/maps/JsBmv4L7JLovoRiRA
SP-SCW-22-2022	122 Leaning Tree Road	https://goo.gl/maps/zBGcTLk8Qm53G7bU9
SP-SCW-23-2022	1270 Woodcreek	https://goo.gl/maps/nSUUijT2vuyLnxx68
SP-SCW-24-2022	160 Hickory Ct.	https://goo.gl/maps/Ek7PApn4NdgPSn528
SP-SCW-25-2022	820 Wood Creek Place	https://goo.gl/maps/ZUXRQDyrzMV4JQ3V6
SP-SCW-26-2022	3913 Creekwood Dr	https://goo.gl/maps/euJDiqog4EydsaPT6
SP-SCW-27-2022	3714 Creekwood Dr	https://goo.gl/maps/NgpzqJ67Knx8pzAeA
SP-SCW-28-2022	3953 Woodmore Drive	https://goo.gl/maps/Tm4v5GcyE7KoD2wp6