



Dear Councillors & Neighborhood leaders,

We appreciate your continued engagement on the issue of wireless infrastructure and we fully agree that neighborhoods, residents, and community leaders deserve a say in the land use process.

Federal and state laws enacted in recent years strictly preempt the City's ability to regulate the installation of wireless infrastructure. However, state law (IC 8-1-32.3-15(c)) currently allows the City to prohibit the installation of wireless cell facilities, also known as 5G poles, in the right-of-way in residential zoning districts where underground utilities are required pursuant to the zoning ordinance (Sec. 744-801) if a variance procedure is available.

The Department of Metropolitan Development (DMD) recently began requiring wireless services providers to request a Variance of Development Standards if a provider is seeking to install above-ground wireless facilities in these districts. The Current Planning Division of DMD established this process to ensure neighborhood input via a public hearing process. It is important to note that permit applications submitted to the Department of Business and Neighborhood Services (BNS) also require wireless providers to declare if a proposed installation will be located within one of these districts. Without a variance, applications for installations in residential zoning districts will remain incomplete and permits will not be issued.

Currently, multiple variance petitions are pending with DMD for proposed 5G poles for locations across the city. Adjacent property owners, registered neighborhood organizations, and the City-County Councillor in these districts should have received or will soon receive a Notice of Public Hearing in the mail, and an orange sign has or will be placed at the location of each proposed pole. Many of the initial 5G wireless petitions will be heard on **Tuesday, September 15**, and staff reports can be found [here](#).

The Notice of Public Hearing will include hearing details, the applicant's contact information, and the DMD staff planner's contact information. The orange sign is solely a notice for the public hearing—**no decision has been made regarding approval or denial of the petition request.** Residents will have an opportunity to voice their opposition or support of the petition request at the public hearing. Written statements, emailed to DMDpubliccomments@indy.gov, must be submitted 24 hours prior to the hearing and should include the case number and approximate address of the sign location. You may also email planneroncall@indy.gov with the address of the proposed 5G pole for general information regarding the case number or the staff planner assigned to the case.



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Due to COVID-19 precautions, the Board of Zoning Appeals public hearings will be held virtually. Details on how to join the online hearing will be located at the bottom of the public notice on the second page or can be found online [here](#). Public hearing information and staff recommendations will be posted by the end of business on the Thursday prior to the scheduled hearing. Staff reports and agendas will be posted on our website, [here](#).

Below you'll find answers to your concerns outlined in your letter, but please know we would be happy to set up a time to discuss further questions.

1. Exact addresses, locations, and plans must be submitted on all petitions. When a homeowner, architect, builder, etc. submit a petition for approval, highly detailed plans are required down to the inch. It is reasonable to have the same expectations of large corporations with immense resources.

Wireless providers are held to the same standards as any homeowner making a variance request. Each variance petition includes submitted locations and elevations for every proposed requested pole. You may request a copy by contacting the planner assigned to the case or by emailing planneroncall@indy.gov. Elevations and locations will also be posted with the staff reports, which will be available online [here](#).

2. Exhaustive measures must be taken to place small cell tower technology on *existing poles and/or in alleyways*. An explanation for why existing poles and/or alleyways cannot be used must be provided prior to the petitioner's public hearing at the appropriate neighborhood meeting to discuss alternatives. Our frontage and alleys are dotted with poles that could serve as host to this new technology without having to dig new holes and place new poles in the view of residents' homes.

State law prohibits cities from requiring or regulating the installation, location, or use of wireless service facilities on utility poles or electrical transmission towers (IC 8-1-32.3-25). When providers apply to place a new pole, they must provide an explanation for why collocation of a wireless facility is not feasible (IC 8-1-32.3-20).

3. All telecom companies, including their contractors and subcontractors, are required to notify property owners of their work *a minimum of 48-hours* prior to starting work and provide a *direct contact person in the event property damage is caused by the result of the work performed*.

Providers are required to follow federal, state, and local laws regarding the installation of utilities. State statute prohibits the City from treating wireless providers differently from



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other utilities that conduct work in the public right-of-way (IC 8-18-32.3-17). Currently, BNS posts new wireless cell facility applications on the department's website ([here](#)) and sends out emails to those groups and individuals registered for notifications. Additionally, contractor information is available through the Accela Citizen's Access Portal.

4. All telecom companies are required to adhere to the existing Land Use processes for the neighborhood/community in which the petition is active. This includes presenting at Public Land Use hearings with registered neighborhood organizations prior to BZA Hearings.

Federal and state laws dictate the timeline for the City's variance process for wireless infrastructure. While the City encourages telecom providers to communicate directly with the neighborhood associations in which they seek to install poles, a federally-mandated time limit specifies the maximum length of any land use process for these projects. For new poles, the maximum time limit is 90 days—from start to finish—before an application is considered automatically approved, or a telecom company's right to judicial review arises. The Federal Communications Commission recently clarified that the time limit starts once the first required step is taken: meaning that submission to any board (including a neighborhood's land use committee) prior to submission to the City, would start the clock.

Please let us know if you'd like to set up a meeting to discuss further. Thank you again for your continued engagement and service to Indianapolis.

Thank you,

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