

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SANDOVAL**

IN RE APPEAL OF ZONING	)	
APPLICATION CU-26-001	)	
THE COUNTY OF SANDOVAL	)	
	)	
SCOTT QUINN for SUN STATE	)	Appeal from the Sandoval County
TOWER, PINNACLE CONSULTING,	)	Planning & Zoning Commission
and VERIZON WIRELESS	)	Decision of May 19, 2026
<i>Applicant-Appellant.</i>	)	

**ORDER REVERSING THE DECISION OF THE
P&Z COMMISSION AND
APPROVING APPLICATION CU-26-001**

The Board of County Commissioners of the County of Sandoval met on August 20, 2026, to hear the appeal of Scott Quinn representing Sun State Tower, Pinnacle Consulting, and Verizon Wireless on zoning application CU-26-001. Because the decision of the Sandoval County Planning and Zoning Commission was not in accordance with law and the evidence presented, its decision is reversed and application CU-26-001 is granted subject to the conditions of approval recommended in the Planning and Zoning Department's staff report.

Findings of Fact

The Board enters the following findings of fact.

1. Scott Quinn, agent for Sun State Tower, Pinnacle Consulting, Verizon Wireless, and Racquel Huslig submitted an application for a conditional use permit to the Sandoval County Planning and Zoning Department on February 12, 2026.
2. Mr. Quinn is the site acquisition manager for Pinnacle Consulting, Inc., Gilbert Arizona.
3. The application is for a wireless communications tower to be located on a parcel located in the community of Placitas in the unincorporated area of Sandoval County, specifically Tract 5-A1-W of the Placitas Homesteads subdivision, as shown on "Claim of Exemption Lot Line Adjustment Plat, Tracts 5A-1A-3 & 5A-1A-W, Placitas Homesteads, in Section 35, T.13N., R.4E., N.M.P.M., Sandoval County, New Mexico," recorded in the Office of the Sandoval County Clerk on June 12, 2020, at Plat Book 3, Page 4546.
4. This parcel has the address of 4 Tierra Madre Road, Placitas. This parcel is at the northeast corner of the intersection of Highway 165 and Tierra Madre Road.
5. The existing zoning of this parcel is special use. This zoning was established by Sandoval County Ordinance 10-11-18.7B6, adopted in 2010. Communications towers are allowed under the current zoning if the owner applies for and is granted a conditional use permit.
6. The application seeks approval of a "new 75-foot high concealment pole with shroud used for Verizon wireless communications equipment. Associated

ground equipment to be placed at the base of the pole all contained within a 8-foot high coyote steel wooden fence.”

7. Attached to the application is the “Property Owner’s Agent Authorization Form” with a notarized signature from Ms. Huslig, owner of the parcel where the tower is proposed. The document authorized Mr. Quinn to be her agent for the application.
8. Ms. Huslig in 2024 signed a ninety-nine year lease for part of her property to Sun State Towers IV, L.L.C., a Delaware limited liability company.
9. The staff report of the Planning and Zoning Department found that the application is complete and addressed all requirements of Sandoval County ordinances.
10. The application was also reviewed by the county’s expert consultant Jonathan Kramer at the Telecom Law Firm, P.C., Santa Monica, California.
11. Dr. Kramer’s reviewed the proposed project. His report found that the application demonstrated planned complied with the radiofrequency emission requirements of the U.S. Federal Communications Commission, specifically 47 C.F.R. §§ 1.1307 et seq.
12. The staff report of the Planning and Zoning Department recommended approval of the application subject to these conditions:
 - a. The applicants shall comply with all applicable provisions of the County’s and State’s Codes and shall obtain all required permits and approvals prior to commencing any construction activities.

- b. Any modifications to the approved plans or conditions shall require prior written authorization from the County subject to the then current County's Code and regulations.
- c. The County has imposed in order to improve appearance & reduce maintenance costs that the proposed eight (8) feet high coyote style wooden fence shall be replaced with an eight (8) feet high Concrete Masonry Unit (CMU) wall with metal gate to fully screen all equipment at ground level. The CMU wall shall be treated with a County-approved stucco finish that will harmonize with the natural surroundings.
- d. All utilities services (electrical, gas, fiber copper telecommunications, etc.) shall be installed underground and no utility poles shall be permitted to serve the approved project now or in the future.
- e. Applicant shall specify and use tower lighting systems that minimize lighting downwards towards roads and structures, but rather towards the horizon and in compliance with FAA regulations.
- f. The proposed wireless site shall include a clearly visible sign, not to exceed four (4) square feet in area, to provide appropriate notification to individuals in the vicinity of the site regarding the presence of equipment with active transmission capabilities. This sign must be affixed to the equipment shelter or cabinet associated with the facility and must be positioned so that it is readily visible from the primary access point to the site. The sign shall include the name(s) of the owner(s) and operator(s) of the antenna(s), along with valid 24-hour emergency contact phone

number(s), to facilitate timely response in the event of an incident or operational concern. The sign must not be illuminated unless such lighting is expressly required by applicable federal, state, or local laws, rules, or regulations. No additional signage—whether for commercial advertising, branding, or promotional purposes—shall be permitted on any part of the facility, including on towers, fencing, shelters, or cabinets. This restriction is intended to minimize visual clutter and maintain the aesthetic and environmental integrity of the surrounding area.

- g. Permittee shall keep its base station equipment gates and cabinets closed and locked at all times except when active maintenance is performed on the equipment.
- h. Permittee shall ensure that all federally-required radio frequency signage be installed and maintained at all times in good condition. All such radio frequency signage shall be constructed of hard materials and be UV stabilized. All radio frequency signage must comply with the sign colors, sign sizes, sign symbols, and sign panel layouts in conformance with the most current versions of ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards. All such radio frequency signage, or additional signage immediately adjacent to the radio frequency signage, shall provide a working local or toll-free telephone number to its network operations center that reaches a live person who can exert transmitter power-down control over this site as required by the FCC.

- i. In the event that the FCC changes any radio frequency signage requirements that are applicable to the project site approved herein or ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards that are applicable to the project site approved herein are changed, Permittee, within 30 days of each such change, at its own cost and expense, shall replace the signage at the project site to comply with the then current standards.
 - j. The Sandoval County Fire Department must be given access keys and/or codes to the site in order to mitigate any unforeseen emergencies.
13. The Planning and Zoning Commission held a properly noticed public hearing on the application on May 19, 2026.
14. At that hearing, the Planning and Zoning Commission heard from the applicant and citizens.
15. Testimony was given that Ms. Huslig is purchasing the parcel on a land contract. The sellers on that land contract are Orville C. and Judith A. McCallister.
16. The Planning and Zoning Commission denied the application by a vote of six to zero.
17. In denying the application, the Planning and Zoning Commission entered these conclusions of law:
- a. Undisputed and uncured misrepresentations and deficiencies in the Applicants' application.
 - b. Questions unanswered by the Applicants regarding the ownership of the underlying Property as to whether the person holding a mere real estate

contract on the Property, rather than the actual current Property owners, has authority to encumber the Property with the Conditional Use Permit sought in CU-26-001.

- c. Questions unanswered by the Application as to whether the Applicants received valid authorization to sign the application from the actual underlying Property owners to properly request the Conditional Use permit.
- d. Whether there is an actual need for this proposed facility based on evidence tendered at the Public Hearing by multiple members of the public, including without limitation to presentation of Verizon's existing coverage maps for the area claimed by the Applicants to benefit from the project which shows the full availability of Verizon's services, which directly conflict the Application materials and the sworn testimony of the Applicants at the Public Hearing;
- e. Whether the proposed project site is a more acceptable location for the facility based on public testimony.
- f. That based on multiple signal measurements made and reported by the public regarding Verizon's service, Verizon's service coverage is currently fully available in the area proposed by the Applicants to be benefited by the proposed facility.
- g. The aesthetics of the proposed monopole, with its enlarged radome, are inconsistent with the surrounding area.
- h. There should be more dialogue to see if the fire station location previously considered by Applicants will work.

18. Mr. Quinn filed an appeal of this decision.

19. Notice of the Board's hearing on August 20, 2026, was published in the *Albuquerque Journal* on August 5, 2026.

Conclusions of Law

1. The Board of County Commissioners has jurisdiction over this appeal, which was timely filed.
2. Notice of the Board's August 20 hearing and an agenda for that meeting were both properly published in compliance with the Open Meetings Act and the Sandoval County Code of Ordinances.
3. The Commission's first three conclusions of law all relate to claims raised during the hearing that Ms. Huslig is not the real owner of the property and therefore lacked authority under the Zoning Ordinance to authorize the application to be filed with Sandoval County. These conclusions are all erroneous and the Commission's denial based on those three conclusions are unsupported for this appeal. The Commission has no authority to make determinations as to the ownership of land. That authority falls within the jurisdiction of the District Court. See NMSA 1978, § 42-6-2 (1925). Even if the Commission had such power, it was incorrect as a matter of law to conclude Ms. Huslig was not the owner of the parcel. The buyer (or "vendee") under a land contract is the owner for all purposes, not the seller/vendor. In *Marks v. City of Tucumcari*, 1979-NMSC-045, ¶ 5, 93 N.M. 4, 595 P.2d 1199, the Supreme Court wrote:

In New Mexico the rule is that a vendee, under an executory contract for the sale of realty, acquires an equitable interest in the property.

By application of the doctrine of equitable conversion, the vendee is treated as the owner of the land and holds an interest in real estate. On the other hand, the vendor holds the bare legal title as a trustee for the vendee.

The ruling in *Marks* builds upon *Mesich v. Board of County Commission of the County of McKinley*, 1942-NMSC-054, ¶ 16, 46 N.M. 412, 129 P.2d 974, which held:

In law the effect of a contract whereby the owner agrees to sell and another agrees to purchase a designated tract of land, the vendor remains the owner of the legal title to the land; he holds the legal title But, in equity the vendee is held to have acquired the property in the land and the vendor as having acquired the property in the price of it. The vendee is looked upon and treated as the owner of the land and the equitable estate thereof as having vested in him. He may convey it or encumber it, devise it by will and on his death it descends to his heirs and not to his administrators. The legal title is held by the vendor as a naked trust for the vendee and any conveyance by him to one not a bona fide purchaser for value is ineffective to pass title. The vendee must bear all accidental injuries or losses done to the soil or appurtenances, by the operations of nature or third parties, and is entitled to recover all damages for injury thereto. The vendor, before payment, holds the title as trustee for security only.

4. The Commission's fourth and sixth conclusions for denial—that the tower is not needed because Verizon's existing service is sufficient—is not supported by law. Sandoval County has authority to zone “for the purpose of promoting health, safety, morals or the general welfare.” NMSA 1978, § 3-21-1 (2026). In exercising that authority, Sandoval County may regulate “(1) height, number of stories and size of buildings and other structures; (2) percentage of a lot that may be occupied; (3) size of yards, courts and other open space; (4) density of population; and (5) location and use of buildings, structures and land for trade, industry, residence or other purposes.” *Id.* This parcel is already zoned for a communications tower. The application does not necessitate a zone-change

request where a public need test may apply. See *Albuquerque Commons Partnership v. City Council of the City of Albuquerque*, 2008-NMSC-025, ¶ 30, 144 N.M. 99, 184 P.3d 411. Rather, this is a special use permit application where there is no requirement to show a public need. Cf. *Ricci v. Bernalillo County Board of County Commissioners*, 2011-NMCA-114, ¶¶ 15–16, 150 N.M. 777, 266 P.3d 646.

5. The Commission's fifth conclusion for denial—"Whether the proposed project site is a more acceptable location for the facility based on public testimony"—was erroneous. Giving neighbors an unfettered veto on a zoning application is improper. *Washington ex rel. Seattle Title Trust Co. v. Roberge*, 278 U.S. 116, 122, 49 S.Ct. 50, 52, 73 L.Ed. 210 (1928), *Deer Mesa Corp. v. Los Tres Valles Special Zoning Dist. Comm'n*, 1985-NMCA-114, ¶ 39, 103 N.M. 675, 712 P.2d 21.
6. The Commission's seventh conclusion for denial, that the tower does not fit the character, of the neighborhood, conflicts with the mandate of Federal law that limits the authority of local governments to bar communications towers. See 47 U.S.C. § 332. Federal law, which pre-empts state and local laws, states "the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof . . . shall not prohibit or have the effect of prohibiting the provision of personal wireless services." 47 U.S.C. § 332(7)(B)(i). The Commission's decision has the effect of prohibiting communications towers in Placitas.

7. The eighth and final conclusion for denial—that the applicants should consider another property at the fire station in Placitas—is not based on substantial evidence in the record. The Commission cannot assume that the owner of any alternative location would be amenable to allowing a tower on its property. Nor did the Commission have at the hearing the technical expertise to adjudge that an alternative location would be suitable for the needs of the communications providers. The eighth conclusion was also erroneous.

Order

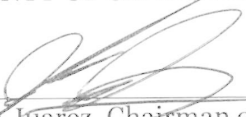
The Board of County Commissioners of the County of Sandoval makes the following orders:

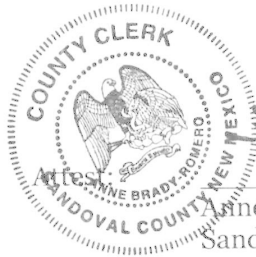
1. The decision of the Sandoval County Planning and Zoning Commission in case CU-26-001 is REVERSED.
2. The application in case CU-26-001 is GRANTED, subject to the conditions outlined in the staff report of the Planning and Zoning Commission and an additional condition: the applicant shall consult with the community of Placitas on the colors and artistic designs of the tower, radome, and surrounding wall with the colors and artistic designs being subject to approval by the Planning and Zoning Director.
3. The Director of the Planning and Zoning Department is ordered to serve a copy of this order on all parties to the appeal by e-mail or first-class mail.

It is so ordered.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF SANDOVAL

By:


Jordan Juarez, Chairman of the
Board of County Commissioners




Jane Brady-Romero,
Sandoval County Clerk

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Thirteenth Judicial District Court pursuant to NMSA 1978, § 39-3-1.1 (1999) and Rule 1-074, NMRA. A notice of appeal must be filed with the District Court within thirty days of the filing of this decision with the Sandoval County Clerk.