

August 17, 2026

VIA HAND DELIVERY AND ELECTRONIC MAIL

John M. Butrick, Deputy County Attorney
Legal Department
County of Sandoval
Post Office Box 40
Bernalillo, New Mexico 87004
jbutrick@sandovalcountynm.gov

Re: Objections Related to Appeal of Planning and Zoning Commission Denial, Case No. CU-26-001 (Placitas Telecommunications Tower), Hearing Before the Board of County Commissioners, August 20, 2026, 10:00 a.m.

Dear Mr. Butrick:

The undersigned Parties of Record in the above-referenced appeal write to formally object to the County's position as communicated by your email to Ed Garner, Ph.D. on August 13, 2026 that "there will be no public statements" at the August 20, 2026 hearing before the Board of County Commissioners, and to raise additional objections regarding the record on which that appeal will be decided. These positions are contrary to the County's own written procedures and to New Mexico law, and we ask that they be addressed before the hearing.

I. The County's Own Written Procedures Promise Parties of Record an Opportunity to Be Heard

The written guidance previously furnished by the County Attorney's office to appellants and participants in these proceedings expressly distinguishes between general public testimony and testimony from "Parties of Record." (Copy enclosed.) Section 4 of that guidance, titled "Public Testimony vs. Parties of Record," states:

"Because this is an appeal 'on the record,' the Board will only hear from the Parties of Record. These are the people who spoke or submitted written comments at the first hearing. If someone from the general public attends who did not participate in the first hearing, the Chair may not allow them to speak, as their comments would constitute 'new evidence.'"

Numerous members of the public, including the undersigned, appeared and/or submitted written comments at the Planning and Zoning Commission hearing that resulted in the denial of the conditional use permit at issue in this appeal. Under the County's own written procedures, we are Parties of Record entitled to be heard at the August 20

hearing. Your office's blanket statement that “there will be no public statements” directly contradicts this written procedure and would deny Parties of Record the opportunity the County itself has promised.

II. The Procedural Script Provided Compounds the Problem, Because the Applicant and the Appellant Are the Same Party

The “Chairman's Procedural Script and Checklist” you provided was prepared for a different matter, Case No. ZNCH-25-005 (a Zone Map Amendment application by Evan Kinsley), not this case, CU-26-001. To the extent the County intends to apply that same format to this appeal, it produces an absurd result that independently deprives Parties of Record of any opportunity to be heard.

That script allocates presentation time exclusively between two roles: the “Appellant” (15 minutes) and the “Appellee/Applicant” (20 minutes). That structure presumes the Appellant and the Applicant are different parties, so that both sides of the underlying dispute—the applicant that sought approval, and the party appealing the outcome—are represented and heard.

In this case, however, the Applicant and the Appellant are the same party: Sun State Towers applied for the conditional use permit, the Planning and Zoning Commission denied it, and Sun State Towers is now the Appellant asking the Board to reverse that denial. If the Board follows the script as written, Sun State Towers would occupy both the 15-minute “Appellant” slot and the 20-minute “Appellee/Applicant” slot, consuming the entirety of the time allotted for argument, while the Parties of Record who actually opposed the project and spoke against it before the Planning and Zoning Commission would be given no time to speak at all. That result cannot be reconciled with the County's own instructions describing Parties of Record's right to be heard, nor with New Mexico law.

III. New Mexico Law Requires an Opportunity to Be Heard

NMSA § 3-21-6(B) provides that “No zoning regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public hearing at which all parties in interest and citizens shall have an opportunity to be heard.” (Copy enclosed.) Excluding Parties of Record from the August 20 hearing, whether by categorical statement that “there will be no public statements,” or by a procedural format that leaves them no allotted time, would violate this statutory guarantee.

IV. The Appeal Is Confined to the Record, and the Underlying Application Was Itself Defective

The Sandoval County Wireless Telecommunications Facilities Siting Ordinance (Ord. No. 03-10-16-11A) (“WTFS Ordinance”) reinforces the “on the record” limits described

above. Section 34 of the WTFS Ordinance provides that “[a]ny review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings.”

The Parties of Record objected at the hearing on May 19, 2026 that the Property Owner's Agent Authorization Form required by Section 7.B of the WTFS Ordinance had not been properly executed. Racquel Huslig, who signed the Authorization Form in February 2026, was not the owner of the subject parcel and therefore lacked authority to authorize the Application. That defect was reflected in at least two of the Planning and Zoning Commission's conclusions supporting its unanimous denial of the Application, including its findings of “[u]ndisputed and uncured misrepresentations and deficiencies in the Applicant's application” and unanswered questions as to “whether the Applicants received valid authorization to sign the application from the underlying Property owners.”

V. The Applicant's June 9, 2026 Authorization Form Is New Evidence Outside the Closed Record

The record in this matter closed at the conclusion of the Planning and Zoning Commission hearing on May 19, 2026. When the Applicant submitted its appeal on or about June 25, 2026, it attached a new Authorization Form dated June 9, 2026, three weeks after the record closed, purporting to cure the defect described above.

Because the June 9, 2026 Authorization Form did not exist, and was not part of the record, at the time the Planning and Zoning Commission closed the hearing and rendered its decision, there is no legitimate basis for including it in, or considering it as part of, the record on this on-the-record appeal. We respectfully request written confirmation that the June 9, 2026 Authorization Form has not been, and will not be, viewed by, provided to or considered by any member of the Board of County Commissioners in connection with this appeal.

VI. General Objection to Untimely Materials

Despite our in-person request to the Planning and Zoning Department, we have not received a copy of the official record that will be before the Board on August 20, 2026, and accordingly have not had the opportunity to determine whether other materials have been added to, or removed from, the record as it existed at the close of the Planning and Zoning Commission hearing on May 19, 2026. We reserve, and hereby raise, a general objection to the admission of any material, written or oral, that was not timely submitted to the Planning and Zoning Commission on or before May 19, 2026.

This concern is heightened, not diminished, by the County's position that there will be no opportunity for Parties of Record to speak at the August 20 hearing. We understand that

the Applicant, Sun State Towers, will be permitted to speak. If Parties of Record are simultaneously barred from speaking, there will be no opportunity for anyone to object, in real time, to new factual assertions or exhibits the Applicant may attempt to introduce at the hearing itself. Denying Parties of Record any opportunity to be heard therefore does more than exclude us from the proceeding, it removes a crucial check against the introduction of new evidence in violation of the “on the record” limits of Section 34 of the WTFS Ordinance.

VII. Status of the Section 3-21-6(C) Protest Analysis

As you know, we have submitted a protest consistent with NMSA § 3-21-6(C), which provides that the underlying zoning action may not become effective absent the heightened vote of the Board if the owners of 20% or more of the affected areas have protested the proposed zoning action. Please advise, in writing, the status of the County's analysis and determination regarding that protest and whether a heightened vote of the Board will be required.

VIII. Preservation of the Record

This letter is submitted to ensure the record for the August 20, 2026 hearing reflects that Parties of Record requested, and were denied, the opportunity to be heard; that the Application was challenged as defectively authorized; and that we object to the inclusion of the June 9, 2026 Authorization Form and any other untimely material in the record. This letter preserves all rights and remedies arising from these objections, including on further appeal.

IX. Requests

Accordingly, we request that the County:

1. Withdraw or clarify the position that there will be no public statements at the August 20, 2026 hearing, and confirm that Parties of Record, those who spoke or submitted written comments at the Planning and Zoning Commission hearing, will be afforded a meaningful opportunity to be heard, consistent with the County's own written instructions and NMSA § 3-21-6(B);
2. Confirm which procedural script and time allocations will actually govern the August 20, 2026 hearing on Case No. CU-26-001, given that the script provided to date pertains to a different case;
3. Confirm in writing that the Applicant's June 9, 2026 Authorization Form has not been, and will not be, provided to, viewed by or considered by the Board, and that the record before the Board is limited to what was before the Planning and Zoning Commission as of the close of the May 19, 2026 hearing;

4. Provide a paginated copy of the official record that will be before the Board for the August 20, 2026 hearing promptly to allow time for review before the hearing;
5. Provide this letter, together with its enclosures, to each member of the Board of County Commissioners and place it in the record for the August 20, 2026 hearing;
6. Provide written notice of any decision issued on this appeal; and
7. Acknowledge receipt of this letter in writing.

A copy of this letter is being hand-delivered to the Planning and Zoning Department with a request for an endorsed copy showing receipt.

Please contact me with any questions.

This letter may be signed in counterpart by any number of Parties of Record. Parties of Record signing in person should complete one line below in ink, including printed name, mailing address, and date. Parties of Record who wish to join by email should reply to notowerplacitas@gmail.com with words such as: "I join in and adopt this letter" together with their printed name and mailing address; upon receipt, that information will be entered on the signature page on the signer's behalf, and the confirming email will be retained as the record of the signer's assent. A final, consolidated signature page will be provided to the County with the delivered letter.

Respectfully submitted by the undersigned Parties of Record:

No.	Printed Name	Mailing Address	Signature / Date
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(Additional signature pages may be attached if more than twenty Parties of Record join in this letter.)

Enclosures: NMSA § 3-21-6; Appellant Instructions.

cc:

Doraida Arias, Sandoval County Planning and Zoning Department

ENCLOSURE 1

NMSA 1978, Section 3-21-6

§ 3-21-6. Zoning; mode of determining regulations, restrictions and boundaries of district; public hearing required; notice

A. The zoning authority within its jurisdiction shall provide by ordinance for the manner in which zoning regulations, restrictions and the boundaries of districts are: (1) determined, established and enforced; and (2) amended, supplemented or repealed.

B. No zoning regulation, restriction or boundary shall become effective, amended, supplemented or repealed until after a public hearing at which all parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of the public hearing shall be published, at least fifteen days prior to the date of the hearing, within its respective jurisdiction. Whenever a change in zoning is proposed for an area of one block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners, as shown by the records of the county treasurer, of lots of land within the area proposed to be changed by a zoning regulation and within one hundred feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. Whenever a change in zoning is proposed for an area of more than one block, notice of the public hearing shall be mailed by first class mail to the owners, as shown by the records of the county treasurer, of lots or [of] land within the area proposed to be changed by a zoning regulation and within one hundred feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If the notice by first class mail to the owner is returned undelivered, the zoning authority shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested, to that address.

C. If the owners of twenty percent or more of the area of the lots and [of] land included in the area proposed to be changed by a zoning regulation or within one hundred feet, excluding public right-of-way, of the area proposed to be changed by a zoning regulation, protest in writing the proposed change in the zoning regulation, the proposed change in zoning shall not become effective unless the change is approved by a majority vote of all the members of the governing body of the municipality or by a two-thirds vote of all the members of the board of county commissioners.

Credits: L. 1965, Ch. 300; L. 1979, Ch. 319, § 1; L. 1981, Ch. 91, § 1. Formerly 1953 Comp., § 14-20-4.

Current through the 2026 Second Regular Session of the 57th Legislature (2026).

ENCLOSURE 2

Appellant Instructions

Dear Appellant,

Now that your appeal has been scheduled, we want to provide clarity on how the County Board of County Commissioners (“Board”) conducts these proceedings. Because a zoning appeal is a quasi-judicial matter, it follows a more formal structure than a standard public meeting.

The following information will help you prepare for the hearing and understand the rules that the Board must follow under Section 22 of the Sandoval County Comprehensive Zoning Ordinance.

1. The Scope: This is an “On the Record” Appeal

Unlike the first hearing before the Planning and Zoning Commission, this appeal is **not** a “new trial.” The Board’s role is to act as an appellate body.

- **What this means:** The Board will review only the evidence, documents, and testimony that were already presented at the original hearing.
- **The Restriction:** You cannot introduce new evidence. This includes new photographs, new traffic data, or new letters from neighbors that were not in the record when the Planning and Zoning Commission made its decision.

2. The Standard: What the Board is Looking For

To be effective, your presentation should focus on the “Grounds for Appeal” specified in Section 22.A. You must demonstrate that:

- The P&Z Commission made a specific legal error;
- The decision was an “abuse of discretion”; or
- The decision was not supported by “substantial evidence” in the record.

3. What to Expect at the Hearing

The hearing is structured to give both sides a fair chance to speak within a strict timeframe:

- **Staff Report:** County staff will provide a summary of the case and the P&Z Commission’s findings (10 minutes).
- **Appellant’s Presentation:** You will have a designated time (15 minutes) to present your argument.
- **Applicant’s Presentation:** The original applicant will have equal time (20 minutes) to respond to defend the P&Z Commission’s findings.
- **Rebuttal:** You will be granted a short period (5 minutes) to respond specifically to the applicant’s arguments.

4. Public Testimony vs. Parties of Record

Because this is an appeal “on the record,” the Board will only hear from the Parties of Record. These are the people who spoke or submitted written comments at the first hearing. If someone

from the general public attends who did not participate in the first hearing, the Chair may not allow them to speak, as their comments would constitute "new evidence."

5. The Outcome

After the hearing, the Board will deliberate and take one of three actions:

1. **Affirm:** They agree with the P&Z Commission, and the original decision stands.
2. **Reverse:** They find a significant error and overturn the original decision.
3. **Remand:** They send the case back to the P&Z Commission with instructions to gather more information or fix a specific procedural error.

If you have questions regarding these procedures, please do not hesitate to contact the Planning and Zoning Department.

Sincerely,