



## STAFF REPORT

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**MEETING DATE:** December 14, 2023

**ITEM TITLE, PRESENTER:** Variance Approval Update for a 125-Foot Telecommunications Tower at 4326 East Sunny Acres Lane in Spanish Valley, Mack McDonald, Chief Administrative Officer

**RECOMMENDATION:** Informational Item Only

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### SUMMARY

Variance requests go through a separate process outside of a County Board of Commissioners and the County Planning Commission. In accordance with San Juan County Code §153.042 (B) the County's land use appeal authority – may grant a variance to the requirements of the Land Use Code. Our Land Use Authority is a contracted Administrative Law Judge who had the responsibility of determining whether a variance was appropriate for the proposed tower and its height.

Strict standards have to be met by the applicant in order to receive a variance which includes the following:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
5. The spirit of the zoning ordinance is observed, and substantial justice done.

Enclosed with this staff report is the approval of the variance from the utility building, height and set back restrictions in the San Juan County land use code for the 125-foot tower at 4326 East Sunny Acres Lane subject to five (5) mitigation requirements contained in the decision.