

## Press Memo — South Tucson BOA 25-01 — Version 6

Version 6 · May 13, 2026 · Tucson, Arizona

*This is the same memo previously distributed in earlier versions, updated in two respects: (1) language has been tightened throughout to use hedged, source-attributed framing in place of any overconfident assertion (“according to the publicly available record” / “in the sources checked” / “did not locate”); (2) a new section, **The documentary record on whether these changes were lawfully adopted**, summarizes findings of documentary research completed May 13, 2026.*

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### A 70-foot Verizon cell tower was approved across the alley from a residential block in South Tucson — in 35 minutes, without making any of the seven findings the law requires.

On **February 25, 2026**, the South Tucson Board of Adjustment voted 4–0 to approve a variance for a 70-foot Verizon cell tower at the alley line of a residential block at **2425 South 10th Avenue**. The hearing took 35 minutes. The publicly available audio recording runs 33 minutes and 46 seconds. **According to that recording, no Board member, no city staff member, and no representative for the applicant addressed any of the seven findings the South Tucson Zoning Code (§ 24-21(c)) requires to be made before a variance may be granted.**

On **May 5, 2026**, after Council members were briefed on documented differences between two published versions of South Tucson Code Chapter 24, **South Tucson Mayor Roxanna Valenzuela called the matter “scandalous, and potentially scandalous” on the record** and called for forensic review. Her verbatim statement appears below.

The full documentary record is available to press on request. Contact information is at the end of this memo.

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### What kind of variance is this, even?

According to the publicly available record, the City of South Tucson has answered the question of what was approved on February 25 in three different ways across three different forums.

**At the BOA hearing**, the applicant’s siting representative said, on tape, that the request was for *“relief on the north and east property lines to allow us to abut [the structure] closer to that open space greenbelt parcel”* — the language of a **setback variance**. (Hearing audio, 30:08–30:31.)

**In earlier informal references**, the same approval has been described by city officials as a **use variance**.

**At the May 5, 2026 City Council meeting**, the South Tucson City Attorney told councilmembers, on tape: *“this was not a setback variance. This was a use permit approval. All cell towers in that zoning require a use permit. The factors to obtain a variance don’t apply.”*

**Why this matters legally.** South Tucson Code § 24-21(a) **expressly bars the Board of Adjustment from granting use variances**. Use changes must proceed through the City Council under § 24-43, with Planning Commission review and a public hearing. Whichever characterization is the correct one, a procedural question follows:

- **If it was a setback variance**, the seven required findings under § 24-21(c) had to be made on the record and, according to the recording, were not.
- **If it was a use variance**, the Board lacked jurisdiction to approve it under § 24-21(a).
- **If it was a use permit**, a different but parallel set of findings was required, and, according to the recording, was not made.

The Mayor’s full on-the-record statement at the May 5 meeting, in her words:

*“It doesn’t look like we followed a process. It looks like somebody changed the code... let’s get forensics involved. We have to do an internal investigation... I’m worried about the process right now and that we broke the law.”*

She separately characterized the underlying sequence as **“scandalous, and potentially scandalous.”** Both are verbatim quotations from Mayor Valenzuela at the public meeting; both are reproduced here as fair report of those proceedings rather than as characterizations adopted from any other source.

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## Five things on the public record

**1. The seven required variance findings under § 24-21(c) were not made on the record.** According to the publicly available audio of the 33-minute, 46-second hearing, none of the seven affirmative findings the variance section requires were addressed. Federal law (47 U.S.C. § 332(c)(7)(B)(iii)) independently requires substantial evidence in writing for any wireless-facility decision.

**2. The notice question.** The South Tucson City Planner told the Board on the record that mailed notice went to *“every property owner”* within the 300-foot statutory radius. In door-to-door conversations using the City’s own mailing list, **several property owners within that radius have reported they did not receive the mailed notice.** The exact extent of non-receipt is the subject of a public records request now pending. What is already documented, independently of those reports, is that § 24-43 (mailed notice) and § 24-46 (the property-owner protest formula) were both substantively rewritten between

the August 5, 2025 and April 27, 2026 published versions of Chapter 24 — the same window in which this application was being processed.

**3. The use authorization rests on a 1970s-era code clause — and the City has now publicly reframed it.** South Tucson initially relied on § 24-387(b)(12) (“*radio broadcasting stations, towers and studios,*” drafted before consumer cellular service existed) to authorize a 2026 Verizon cell tower. At the May 5 Council meeting, the City Attorney told the Council the approval was not a variance but a “*use permit.*” See the variance section above.

**4. Pima County signed a written determination on May 5, 2026 placing a portion of the parcel in regulatory floodplain and erosion hazard area.** The Pima County Regional Flood Control District Flood Hazard Information Form (Submission ID be7b343e-bbd4-412b-b87c-ed596489a9b7, signed by Rachel Forney of the Chief Engineer’s office) establishes that a portion of 2425 S. 10th Avenue sits in regulatory Local Floodplain (Special Study #107) and Erosion Hazard Area, with a 25-foot setback required from the wash directly to the north under Pima County Code § 16.28.030. At the BOA hearing, the applicant’s representative described that same corridor as “*open space greenbelt parcel.*” The applicant’s own Letter of Intent shows north and east setbacks of **12’-3”** and **23’-5”** — both inside the 25-foot Erosion Hazard Area setback subsequently confirmed in writing by the County’s Chief Engineer’s office.

**5. Two published versions of South Tucson Code Chapter 24 differ in 33 documented respects.** A machine-comparison of the August 5, 2025 archived version against the April 27, 2026 currently-published version identifies **33 legally-significant differences:** 15 substantively-changed sections, 11 definition changes, and 7 cross-reference breaks. The chapter is approximately 13 percent shorter in character count in the April 2026 version, with approximately one-third of its defined vocabulary not appearing. According to the publicly available record of the May 5 Council meeting, the South Tucson City Attorney has stated that the differences reflect “*an incorrect posting that was corrected*” by the code-publishing vendor. The documentary record set out below raises specific questions that account does not address on its own terms.

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## Who is asking — Verizon, with an applicant who already owns the co-location alternative

The corporate beneficiary of BOA 25-01 is **Verizon Communications, Inc.** — the wireless carrier whose antenna would be installed on top of the proposed 70-foot pole, whose lease would fund the host site, and whose network footprint would expand into the residential block.

The applicant of record at the hearing was **Scott Hopper**, a wireless siting representative working on Verizon’s behalf. According to the applicant’s filed materials, his company is **Pinnacle Consulting (a/k/a Sun State Towers)**. Verizon, like every wireless carrier whose representative appears for a variance, is responsible for the substance of its own application.

**The co-location alternative the Board did not discuss.** An 80-foot Sun State Towers monopole already exists at **2675 S. Santa Cruz Lane**, 0.6 miles west-southwest of the Magnum site. It is FCC-registered (ASR **1325714**), FAA-cleared (Study **2023-AWP-8714-OE**), and **ten feet taller** than what is now proposed at the residential alley line. **According to FCC registration, it is owned by the same company that filed the application for the new tower** — Pinnacle Consulting / Sun State Towers.

According to the publicly available audio of the 33:46 hearing, co-location alternatives were not discussed. South Tucson Code § 24-21(c)(7) requires that any variance be the “*minimum necessary*.” If a co-location alternative that the applicant itself owns is available on a taller existing structure 0.6 miles away, the seventh required finding is one that, according to the hearing audio, was not engaged on the record.

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### The self-imposed-hardship problem

According to the Pima County Recorder, title to the parcel transferred to **Hawesome Properties LLC** on **September 27, 2024** (Sequence 20242710479). According to filed materials, the LLC’s principal is **Steve Haws**, who also operates Magnum Paving, the existing tenant on the parcel. The variance application was filed on **December 11, 2025**, approximately fourteen months after the LLC acquired the parcel.

The variance, according to the application materials, rests on hardship asserted to arise from existing conditions of the parcel (the SB-2 zoning, the wash to the north, the floodplain designation, the existing improvements). According to the documentary record, all of those conditions existed on the date Hawesome Properties acquired the parcel.

Under § 24-21(c)(2), the Board may grant a variance only if the hardship is “*not self-imposed nor created by the owner or person in possession of the property*.” According to the documentary record of the parcel transfer and the application filing, conditions known to a buyer on the date of acquisition cannot themselves constitute the hardship that the buyer later asks the variance to address. According to the publicly available audio of the hearing, this finding was not addressed on the record.

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### What two published versions of Chapter 24 differ on

A side-by-side machine comparison of the August 5, 2025 published version of South Tucson Code Chapter 24 against the April 27, 2026 currently-published version identifies **33 documented differences**. According to that comparison, the documented effects on a 70-foot wireless tower application at a parcel 130 feet from the nearest residence include:

## The single most striking documented difference — § 24-43 (mailed notice)

Provision	August 5, 2025 version	April 27, 2026 version
§ 24-43 mailed-notice list	<i>“the city”</i>	<b>“the City of Tucson”</b>

South Tucson and the City of Tucson are separately incorporated municipalities, geographically distinct from one another. According to the documentary record, the August 2025 version of this section used self-referential language (“the city”); the April 2026 version uses the name of a different municipality. According to publicly available information about the two cities’ code-publishing vendors, **South Tucson’s code is published on Municode while the City of Tucson’s code is published on a different platform (American Legal Publishing)**. This raises a question — what publishing or editorial process introduces the name of a neighboring municipality into the mailed-notice list of South Tucson’s own code — that the *“incorrect posting that was corrected”* explanation does not address on its own terms.

## Documented differences that bear on a 70-foot wireless tower application

Section	August 5, 2025	April 27, 2026	Bearing on a 70-foot tower at 130 ft
§ 24-387(b)(12)(f) — height cap	50-foot cap on towers in SB-2	<b>Not present</b>	Proposed tower is 70 ft
§ 24-387(b)(12)(e) — residential setback	2× tower height from residential property	<b>Not present</b>	2 × 70 ft = 140 ft; the Letter of Intent shows 130 ft
§ 24-529 — Commercial Wireless Communications	1-mile minimum tower separation; conceal-or-disguise requirement; FCC compliance requirements; collocation-alternative reports; 15-day pre-hearing notice	<b>Not present</b>	The existing Sun State Towers monopole is 0.6 mi away
§ 24-661 — Small Cell Wireless Facilities	Full regulatory framework	<b>Not present</b>	—
§ 24-23 — Temporary uses and permits	<i>“Temporary uses and permits”</i>	<i>“Reserved”</i>	According to the publicly available text, this was the section that granted “permit” authority to the Board of Adjustment in

Section	August 5, 2025	April 27, 2026	Bearing on a 70-foot tower at 130 ft
			Chapter 24. The City Attorney's May 5 reframe of BOA 25-01 as a "use permit approval" rests on textual authority that, according to the April 27, 2026 version, is "Reserved."
<b>§ 24-46</b> — Property-owner protest formula	Substantive protest threshold + filing mechanism	<b>Different substance and procedure</b>	Changes the math and mechanics for property-owner protest in the same window as the application
<b>§ 24-1</b> — Wireless-related defined terms	10 wireless terms defined (Antenna, Collocation, Communication–commercial wireless, Communications, Communications facility–wireless, Conceal, Disguise, Search area, Service area, Wireless communications provider)	<b>None of the 10 present</b>	The chapter's regulatory vocabulary for wireless infrastructure differs between the two versions

### Six dependent sections rewritten in coordinated fashion

According to the comparison, six different zoning-district sections (**§§ 24-262, 24-352, 24-372, 24-387, 24-454, 24-473**) have their wireless-specific cross-references handled differently between the two versions — all coordinated around the absence of § 24-529 from the April 2026 version. This pattern — six dependent cross-references all pointing at the same section that does not appear in the April 2026 version, each handled cleanly in the April 2026 text — is more consistent with coordinated editorial revision across the chapter than with vendor-side reformatting of pre-existing text. That is the author's opinion based on the documentary pattern, not an allegation of any individual's conduct.

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## The documentary record on whether these changes were lawfully adopted

*New in this version. Documentary research conducted May 13, 2026.*

Under Arizona law, an amendment to a municipal zoning code is adopted through the process set out in **A.R.S. § 9-462.04**, which requires (in summary): a recommendation from the planning agency where one exists; publication of a public-hearing notice in a newspaper of general circulation at least 15 days before the hearing; a public hearing before the legislative body; and adoption by ordinance. A lawful amendment generates a documentary trail: an agenda item, a published newspaper notice, meeting minutes recording the hearing, and an ordinance with a number and date.

Documentary research conducted on May 13, 2026 — across the South Tucson city website’s meeting agendas, meeting minutes, and ordinance index; the Municode platform on which South Tucson’s published code resides; and the *Daily Territorial* public-notice archive (Pima County’s newspaper of record for legal notices) — **did not locate**, in the sources checked, any ordinance that lawfully adopted wireless-related text amendments to Chapter 24 of the South Tucson Code between August 5, 2025 and April 27, 2026. According to the publicly available record:

- According to the city website, a South Tucson **Planning & Zoning Commission hearing on proposed text amendments** to §§ 24-372, 24-387, and 24-473 (P&Z Case 25-01) was held on **September 4, 2025**.
- According to the records checked, **no subsequent City Council agenda item, public-hearing notice, ordinance adoption, or *Daily Territorial* public-hearing notice** referencing those wireless text amendments was located between September 4, 2025 and April 27, 2026.
- According to the records checked, the only ordinance in the window touching any of those three Code sections is **Ordinance 25-04, adopted September 9, 2025**, which amends them solely for marijuana dispensary hours of operation. It does not address wireless provisions.
- According to Municode’s “Adopted Ordinances Not Yet Codified” list for South Tucson, queried May 13, 2026, **no wireless-related Chapter 24 ordinance** is listed as adopted during the window.
- According to a search of the *Daily Territorial* public-notice archive between August 5, 2025 and April 27, 2026 for “South Tucson,” **no public-hearing notice for a wireless Chapter 24 text amendment** appears in the results. (One *Daily Territorial* notice in the window — DTT012585, published February 11, 2026 — is for the BOA 25-01 administrative hearing itself; it explicitly states the variance is required “*as required by City Code 24-387(12)*,” citing the section as already-existing law, not as a proposed amendment.)
- According to the publicly available agenda for the **April 21, 2026** regular meeting of the South Tucson City Council (Item 14), the Council convened an Executive Session under A.R.S. § 38-431.03(A)(3) described as “*DISCUSSION OR*

*CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY REGARDING THE ZONING CODE CELL TOWER APPROVAL PROCESS.*” The Code Chapter 24 currently posted on the city’s website is dated **April 27, 2026** — six days after that executive session.

- One additional finding: according to the Municode platform, **Chapter 24 (Zoning) is not codified on Municode at all.** The Municode City Code for South Tucson ends at Chapter 22. Chapter 24 is maintained as a standalone PDF on the city’s website. To the extent the *“incorrect posting that was corrected”* explanation refers to a Municode vendor migration, the documentary record places Chapter 24 outside Municode entirely.

According to the publicly available record, the documented procedural footprint A.R.S. § 9-462.04 contemplates for any lawful zoning text amendment — a Council agenda item, a published newspaper hearing notice, an ordinance adopted by Council with a number and a date, and a record of the Council vote — does not appear in the sources checked for any wireless-related amendment to Chapter 24 in the August 5, 2025 to April 27, 2026 window.

This is a documented absence in the sources checked, not a positive assertion that no record exists anywhere. The sources searched are listed above; if additional public records contradict the findings, this memo will be revised promptly upon their being produced.

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## The City Attorney’s stated position, and what the documentary record raises

At the May 5, 2026 Council meeting, the City Attorney stated, on the record: *“It wasn’t changed. It was an incorrect posting that was corrected.”*

According to the publicly available record, the following observations bear on that account:

1. The *“the City of Tucson”* substitution in § 24-43 (direct documentary evidence of a substantive textual change with effect on a different jurisdiction’s name appearing in South Tucson’s notice provision).
2. The coordinated handling of six dependent cross-references across §§ 24-262, 24-352, 24-372, 24-387, 24-454, 24-473 around the absence of § 24-529 from the April 2026 version.
3. Eleven definition changes in § 24-1, including 10 wireless-specific defined terms.
4. The decision-maker shift in § 24-501 (Temporary uses) between the two versions.
5. The protest-formula rewrite in § 24-46 (substantive content and filing mechanism).
6. The findings of the May 13, 2026 documentary research above (no ordinance lawfully adopting these changes appears in the sources checked).

7. **One additional point that bears on vendor-migration accounts specifically:** according to the Municode platform itself, Chapter 24 is not maintained on Municode. It is a standalone PDF on the city's own website.

Public records that would test the vendor-error account have been formally requested under A.R.S. § 39-121 *et seq.* — both the May 1, 2026 original 42-item request and a Supplemental PRR now in preparation. The disposition of those requests will be reported in updated versions of this memo.

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## Why this story matters beyond one tower

According to the publicly available record, a 5,500-resident, approximately 1.2-square-mile, approximately 83%-Hispanic municipality, surrounded by the City of Tucson on every side, processed an application for a Fortune 50 wireless carrier in a 33-minute, 46-second hearing. According to the audio, none of the seven findings the municipality's own code requires were addressed. Notice issued under a provision (§ 24-43) whose published text differs between two versions over the same window. The protest formula property owners would have used to push back (§ 24-46) was rewritten between the two versions over the same window. The height cap and residential setback that would have constrained the proposed structure under the August 2025 version (§ 24-387(b)(12)(e) and (f)) do not appear in the April 2026 version. The 1-mile tower-separation rule (§ 24-529) does not appear in the April 2026 version. **And, according to the May 5 Council meeting record, the municipality's own Mayor characterized the underlying sequence on the record as “scandalous, and potentially scandalous” and called for forensic review.**

Two months after the BOA hearing, the City Attorney told Council the approval was not a variance but a “*use permit*” — under textual authority that, according to the April 27, 2026 published Code, is the section currently marked “*Reserved.*” According to the publicly available record, every assertion in this memo is sourced.

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## Larger public-interest questions raised by the documented record

- How did a Fortune 50 wireless carrier's siting consultant secure a variance approval in 35 minutes in a hearing where, according to the audio, none of the seven findings the local code requires were addressed?
- According to the documented record of the August 2025 and April 2026 published versions, what process produced the 33 differences between them? Mayor Valenzuela called for forensic review on May 5, 2026.
- What is the City of Tucson's response to the documented substitution of its name into a different municipality's published mailed-notice provision?
- How many other recent applications in Arizona or Pima County have involved a comparable combination of facts: published-text differences in the same window as the application, a minimum hearing record, and an applicant of record who already owns a viable alternative co-location structure?

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## What is available to press on request

- Full 33:46 hearing audio recording, with a timestamped transcript
  - May 5, 2026 South Tucson Council meeting audio and transcript (containing the Mayor's verbatim statements and the City Attorney's "use permit approval" statement)
  - Applicant's filed materials (the application with the "Variance" heading, and the Letter of Intent including the 12'-3" and 23'-5" setback statements)
  - Pima County RFCD Flood Hazard Information Form, signed May 5, 2026
  - Original PRR (filed May 1, 2026) with the City Clerk's date-stamp, and the Supplemental PRR in preparation
  - Side-by-side machine-comparison of the August 5, 2025 and April 27, 2026 published versions of Chapter 24
  - The May 13, 2026 documentary research record (sources cited above)
  - EXIF-locked photographs at the property line on storm and routine days
  - Site walkthroughs welcomed
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## For more

**Public website:** [peoplepowercost.com](http://peoplepowercost.com) (also accessible at [peoplepowercost.babylonchasing.workers.dev](http://peoplepowercost.babylonchasing.workers.dev)) — documentary site with hearing audio, photos, the side-by-side Code comparison, and the applicant's filed materials. The site's notices and corrections page is at [peoplepowercost.com/notices](http://peoplepowercost.com/notices).

**Bryan Sanders** is available for on-record interviews, site walkthroughs of the parcel and the surrounding residential block, and access to the documentary record described in this memo. He is not a lawyer; every claim in this memo is sourced to a public record or identified as opinion based on the documentary record.

## Contact

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