

Town of Mesilla, New Mexico

THE PLANNING, ZONING AND HISTORICAL APPROPRIATENESS COMMISSION
(PZHAC) WILL HOLD A REGULAR MEETING AT THE MESILLA TOWN HALL,
2231 AVENIDA DE MESILLA.

TUESDAY-SEPTEMBER 5, 2023, AT 6:00 PM

MINUTES

Madam Chairperson Lucero: Ok, let's go ahead and get started, today is September 5th, 2023 and it is 6pm. We are here for the Planning and Zoning and Historical Appropriateness Commission regular meeting. First item is the pledge of allegiance, if everybody could please stand up.

Members: I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible with liberty and justice for all.

Madam Chairperson Lucero: Our next item is roll call to determine a quorum. Mr. Salazar.

Mr. Salazar: Commissioner Jones?

Commissioner Jones: Present.

Mr. Salazar: Commissioner Walkinshaw?

Commissioner Walkinshaw: (no response)

Mr. Salazar: Chairperson Lucero?

Madam Chairperson Lucero: Present.

Mr. Salazar: Commissioner Salas?

Commissioner Salas: Present.

Mr. Salazar: Commissioner Rockstraw?

Commissioner Rockstraw: Present?

Mr. Salazar: Madam Chair, you have quorum. 4 out of 5.

Madam Chairperson Lucero: Thank you very much. Our next item is changes or approval of agenda. Are there any changes?

Madam Chairperson Lucero: Can I have a motion...

Commissioner Jones: Slow move

Commissioner Salas: Second

Madam Chairperson Lucero: Ok, we have a first motion by Commissioner Jones and seconded by Commissioner Salas. Mr. Salazar, can you take the vote please.

Mr. Salazar: Commissioner Jones?

Commissioner Jones: Yes

Mr. Salazar: Madam Chairperson Lucero?

Madam Chairperson Lucero: Yes

Mr. Salazar: Commissioner Salas?

Commissioner Salas: Yes

Mr. Salazar: Commissioner Rockstraw?

Commissioner Rockstraw: Yes

Mr. Salazar: Madam Chair, it is 4 to 0. Motion Passes

Madam Chairperson Lucero: Ok, our next item is public input. At this time, the public is invited to address the commission on items listed on the agenda as allowed by the chair. You can also email your comments to clerktreasurer@mesillanm.gov at least seventy-two hours prior to the meeting. Do we have anybody that wants to speak? If so, state your name.

Susan Krueger: I just wanted to be sure that we, the Town of Mesilla, Planning and Zoning and BOT use our ordinances and abide by them and get them right. So, for example, this is Chapter 18.90. One of the things that is mandatory is section 18.90.070 and it says the P&Z shall, require of its own members or staff investigation of facts of an application set for hearing including an analyze of process and cases to provide all necessary information consistent with the purpose of this title.

So, if that hasn't been done, or it wasn't in your packet or if it was, you would share it with the public. That has to happen first... and... Thank you.

Trina Witter: I sound like a broken record. I have brought this up several times before, its kind of a bookkeeping issue. The minutes for the P&Z are still not posted online. The last posting was on July 3rd. Yes, I can call and get a copy of them, that is what I do but a lot of people don't know that they can do that. Also, for the resolution that the Board of Trustees passed, applies to P&Z as well. The minutes for the P&Z minutes suppose to be posted online. So, that needs to be fixed. Also, the agenda was posted as Monday, September 5th both online and at the post office. So, I wasn't sure if there was going to be a meeting tonight. That is it, thank you!

Bill Cook: Bill Cook, I would like to speak about the preservation of our green belt. I see someone has submitted a request to change the zoning on their property. I think this is not a great idea because it chips away at our structure that we have build here. It is sort of a bullseye design. The center is the commercial and residential area where it is most densely populated. As it expands out, it is one acre per house, 3 acres per house and then 5 acres per house. The idea is to keep a green zone around the outside. So, I would like to encourage you to think carefully about chipping away more, we have had several places similar to this. Over on Snow Road, there is one road

where that person must have had 10 or a dozen children and build a subdivision over there and that is something we don't want to do. Try to retain our green zone around the outside of our town. Thank you.

Madam Chairperson Lucero: Anyone else? If not, we will proceed. Our next item is the approval of the consent agenda. That would include the Planning and Zoning minutes of August 21, 2023.

Commissioner Rockstraw: Slow move

Commissioner Salas: I second

Madam Chairperson Lucero: Ok, we have a first motion by Commissioner Rockstraw and Second by Commissioner Salas. Can I call for the vote please.

Mr. Salazar: Commissioner Jones?

Commissioner Jones: Yes

Mr. Salazar: Madam Chairperson Lucero?

Madam Chairperson Lucero: Yes

Mr. Salazar: Commissioner Salas?

Commissioner Salas: Yes

Mr. Salazar: Commissioner Rockstraw?

Commissioner Rockstraw: Yes

Mr. Salazar: Madam Chair, it is 4 to 0. Motion Passes

Madam Chairperson Lucero: Ok, thank you. Our next item is action and consideration, case Planning and Zoning Historical Appropriateness Commission. Business license 1126, located at 2185 Calle de Guadalupe. It is historical residential and was submitted by Richard Moreno. Mr. Salazar.

Mr. Salazar: Good afternoon commissioners, Madam Chair. This business case is number 1126. It was submitted by Richard Moreno. His address is at 2185 Calle de Guadalupe. Mr. Moreno is requesting a Home Occupation business approval to start up a rental bike business called, Mesilla in Motion.

Mr. Moreno will mostly be targeting tourist with his ebike rentals. Rentals will be scheduled by appointment online and delivery options will be available. Mesilla in Motion will also be having bike tours within Mesilla and its outskirts. Mesilla in motion will have 10 ebikes available for rent. Parking will be minimal at the residence if at any. Mr. Moreno has pointed out in his business proposal letter which is attached.

This request is within the home occupation town code. Insurance will be obtained. He does not have insurance currently. He is waiting for the approval of his request first, before he signs a contract. Once he signs a contract with the insurance agency, and he doesn't get approved, he would still need to finish the remainder of the insurance contract term.

Bikes will help close the distance between businesses. It will help attract more tourism. They will be able to see more of Mesilla and its outskirts. It will attract more tourists as limited parking in Mesilla makes tourist walk further.

Has submitted his business proposal, paid his fees and included pictures of his home parking. Mr. Moreno is here tonight if the commissioner wishes to ask him questions.

Richard Moreno: Good evening. Madam Chair and commissioners, if there is any questions, I can answer them at this time.

Madam Chairperson Lucero: I will accept a motion to approve business license 1126.

Commissioner Rockstraw: Slow move

Commissioner Salas: Second

Madam Chairperson Lucero: Ok, first motion by Commissioner Rockstraw and second by Commissioner Salas. I am opening up for discussion. If they have any questions, they will address the applicant. Commissioners?

Commissioner Jones: I have reviewed your proposal and it is very well put. I do have a concern, there is no mention on your proposal about safety. Safety of the people who are going to be renting your bicycles. Are they going to require to have helmets, which I think they do. Are they going to require to have some kind of audible such as a bell or a horn. I guess, I need you to tell us...I am a bike rider. You are going to have some customers that don't ride very often and zoom, the bikes take off. You are going to add more traffic to the square or that part of the town. I am worried about them getting hurt and I am worried about them hurting people that are out walking. They don't all work on sidewalks. The bike is going to be very very quite, which it should be. If you are going to sneak up on people, it is a safety issue. There is also no indication on your proposal that these bikes will have a lights... headlights. They going to need to have taillights. They are going to be out in traffic. I think it is naive for us to assume that the only time people are going to ride bikes is when it is light out. Somebody might be coming back to your shop, mid night or when its dark outside. So there is a safety issue that I don't see addressed here at all. I think you owe that to the Town of Mesilla and owe it to your potential customers.

Richard Moreno: Ok, so the bikes that we are going to be using are going to be the Aventon. They are going to be the Lectric and also going to be the Hemingway. They are all equipped with mirrors, they are equipped with bells. They are equipped with lights, front and back. They are equipped with safety brakes as well.

So, our research has been in progress for a whole year sir. We have made sure all of that is taken care of. Also, regarding your comment about being out at night, we are not going to be out. The proposal I have submitted states, it will be up until 3 o'clock in the afternoon. Keeping in mind that the time will change here, in about a month or so. So, have thought about everything that you have asked about. As far as the safety for the rider, there will be a 5-minute tutorial before they are even given the bike. On how to control the bike.

Helmets of course, yes we will have one for each customer. Not only the helmet, but also a guard for the head so they can be sanitized in our process.

Commissioner Jones: thank you

Madam Chairperson Lucero: My question is, where are you storing your inventory?

Richard Moreno: Our inventory will be stored at the south main storage. Right here off of by Dick's Café. We don't want to keep any of the bikes on the property. None of the maintenance will not be done there as well. It will be done at a remote sight location. We will be contracting some of that work out. The bikes need to be maintained on a regular basis.

Madam Chairperson Lucero: so you get customers that call you? How is that going to work?

Richard Moreno: No, in the proposal there is also mentioned a software that we are going to use where the potential customer will request a bike if it is available. We will be delivering those bikes via trailer in the morning. We will take those bikes back in the evening. We do not want to keep them bikes or any of our supplies on property.

Madam Chairperson Lucero: Where are you going to be delivering them bikes to? Will it be at their homes or any place in Mesilla? How is that going to work?

Richard Moreno: It will be there at the house or any of the sites I have pointed out in the packet. I have 4 points that people can actually select if they want to pick them up. We will be delivering them to them at that point. The tourists can also start from remote areas. They don't have to start from the house. They can start from remote areas that are in the packet.

Madam Chairperson Lucero: the reason I am asking is for example, you have 5 people. Where are they going to park their vehicles?

Richard Moreno: If they do start off at the house, I have a corner lot. I have put in the proposal that there is space there for about 6 or 7 cars off property. Cause it has to be off property according to the ordinance. Am I correct on that? If it is not, Madam Chair, I have listed the parking that is available to the citizens here which is at the visitor's center. A parking lot that is across from El Palacios, the parking lot that is at the old school in front of the community center. We are going to be mobile. So, that is so we can be in the area where there is available for parking. It won't be more than 5 to 10 people at a time. We only have 10 bikes. There are not going to be car or bus loads coming to utilize our service.

Madam Chairperson Lucero: Most of our businesses pay extra for parking. Will he be required to pay parking fees.

Mr. Salazar: if the business does not have the adequate parking at his residence for his customers, he will be responsible for paying parking fees.

Richard Moreno: Ok, yes we also own the business that is right next to us which is the Air BnB. We will be able to use that parking as well.

Madam Chairperson Lucero: will he still be required to pay the parking fee. Because the Air BnB is for Air BnB.

Richard Moreno: right

Mr. Salazar: yes, he can park at the property next to his as long as he has a business agreement with that business but, each business is required to pay parking fees if there is no sufficient parking. You can't use another business's parking fees to cover your parking.

Madam Chairperson Lucero: I agree, he would still have to pay. On the ordinance, 18.52, it is allowed because... I mean, this bicycle service, we never had a bike rental and requesting what you are...

Mr. Salazar: yes, reading the town code, home occupation will allow to have an office space at the residence for this business. Providing Mr. Moreno does follow through on his proposal that all the bikes are going to be stored offsite and repairs will be done at a different location. Therefore, there should be any signs of a business at his residential property.

Madam Chairperson Lucero: and no signs will be posted at the property.

Richard Moreno: Just the sign that you guys have in the ordinance that is allowed. Am I correct on that?

Unknown Commissioner: Yes

Davie Salas: I don't have a question, I just... first of all, I just want to say, I agree with Commissioner Jones, I think you did a great job the way you put all this together. My issue is though, I just feel it fits the home occupation. I completely, I dig what you are doing. I think it is a great idea for the Town of Mesilla. I just don't think the whole home occupation fits the ordinance. With me 18.52.020 it states right there, it states right there the occupation should fit entirely within the dwelling and carry on the inhabitants. Yes, you are doing business and it can expand out to Mesilla. We have this business that this lady has this business that does, home care for pregnant ladies. Clients come in and go in the house. Nothing is carried on anywhere else. Again, I am not at all trying to discourage you at all, I just feel like this is more of a pop-up type deal where you have a trailer and truck where you can park in a parking lot and have some of the people meet you out there and stuff. Probably even get you more attention for your services just because of the visibility you are going to have. That is my interpretation and well, there are some other things to like parking....

Richard Moreno: So, my confusion then comes with the ordinance that you have on the books because it says you don't want people at the property. You only want 5 people there. So, I went along with what I read and studied it. Had some consultation with Eddie before I put this together. If you guys want the whole business ran out of the house, I can do that too. It would be cheaper...

Commissioner Salas: I apologize if I said that, that is not what I meant. What I am trying to tell you that this type of business, home occupation fits what you are trying to propose with the bike rentals. To me it is more of a commercial type deal, pop up situation where you got your stuff and park over hear grab the bikes and off they go.

Richard Moreno: well it is not going to be a pop up because we are not going to be working out of those parking lots. We don't have contracts... I don't want contracts with El Palacios...that is not the intention. The intention is the delivery of the bikes and if I can deliver them, I would do it. My grandmother has owned that house since 1900, we've paid our taxes since 1900. Our family has always lived at that location and I carefully studied the home occupation rules and regulations before I put this together. So, the word popup to me is a Halloween Spirit store, that comes in on October and leaves at the end of October. That is the definition of a pop up if you look that up. A definition of a pop up is temporarily and is less than 30 days for a permit. Here the permit is going to be able to run the business out of the house.

Madam Chair Lucero: alright, please call out for the vote. If the vote comes out negative, I need an explanation for the record.

Mr. Salazar: Mr. Salazar: Commissioner Jones?

Commissioner Jones: Yes

Mr. Salazar: Madam Chairperson Lucero?

Madam Chairperson Lucero: Yes

Mr. Salazar: Commissioner Salas?

Commissioner Salas: No, 18.52.020 is to remain entirely within the dwelling.

Mr. Salazar: Commissioner Rockstraw?

Commissioner Rockstraw: Yes

Mr. Salazar: Madam Chairperson, it is 3 to 1. Motion Passes

Madam Chairperson Lucero: Ok, let's move on. Our next case is 061688 at 3110 Calle de Guadalupe, submitted by David Deetz. Mr. Salazar

Mr. Salazar: this is a previous case that has been in front of the commission before. It was tabled due to there wasn't any formal plans submitted for the proposed metal building that he wanted to do. Mr. David Deetz and Dona Vince did make some changes to the plans and different than the plans in front of you. First, it was proposed with a guest and washroom build into it. The plans, if you see, that is no longer something that they are proposing or requesting approval for. Again, the only reason it was tabled last time was because the plans were not submitted accordingly. Mr. Deetz and Mrs. Vince is looking to install a prefabricated metal workshop on their property. Mr. Deetz is aware he can't use this workshop for any type of rental. Their property is in the RA zone and will conform to the codes setbacks. I will stand by for any questions.

Madam Chairperson Lucero: Ok, I will accept a motion to approve

Commissioner Jones: Slow move

Commissioner Rockstraw: Second

Madam Chairperson Lucero: Ok, motioned by Commissioner Jones and seconded by Commissioner Rockstraw. I want to open it up for discussion.

Commissioner Jones: so what I am understanding, it will be changing from a dwelling to a shop.

Mr. Salazar: there is already a primary residence on the property. The proposal before was for a workshop with a guest and washroom within the shop. Now it is only going to be a workshop.

Madam Chairperson Lucero: is the applicant here?

Mr. Salazar: no Madam Chair, he is not.

Madam Chairperson Lucero: ok, it will not be rented.

Mr. Salazar: that is correct, it is only a workshop.

Madam Chairperson Lucero: ok, is there anything else.

Commissioner Salas: I thought I read they were going to put in a bathroom...

Mr. Salazar: that is correct but it was for his original proposal. Applicant made some changes and this proposal is only for a workshop.

Commissioner Salas: the workshop will include a washroom and small guest room.

Mr. Salazar: correct, again that is why I mentioned when I first started to present this case, there are doing to be last minute changes. That is why I am verbally advising there is no longer going to be a washroom or guest room.

Commissioner Jones: do we need to specify when we vote it is not to be used as a rental?

Mr. Salazar: correct, that is correct. You could set those conditions.

Commissioner Salas: I don't like the way this is. To me, I feel I got to have the complete packet. This is what I am talking about. You know we only get one vote at this. Whose to say, this is my problem that I have been talking about for a while. Whose to say what we voted on is the same thing that gets submitted to Tom/CID. I mean, where are we holding them accountable to a certain extent when they change something in the plans because we are not getting a complete set. That's what bothers me when I vote on certain cases. Then there is also, a 600 square foot minimum, if they put a room in there.

Madam Chairperson Lucero: What is the size of this building?

Mr. Salazar: It is 40x60

Madam Chairperson Lucero: ok and in the drawing, he's going to put in a small room inside that? What is in the code for that?

Mr. Salazar: this is the RA zone, there is a maximum footprint on the property 40% of the property needs to be open without structure. I have not found anywhere in the code that limits the maximum or minimum accessory building on the property.

Madam Chairperson Lucero: the size of the property is?

Mr. Salazar: it is 3 acres.

Madam Chairperson Lucero: is the commission not happy with the way the case was submitted. Is that the consensus of the commission? So, if there was another set of plans and board action form, would that be what you are requesting.

Mr. Salazar: the plans that go to CID don't get the board action form. The board action form is a summary of what is in the packet. It is for convenience to the commission. I apologize the late changes, the gentleman was very ill. It's been almost 2 months since he applied. He finally stop by my office and gave me the plans. I have requested the digital plans but it was after the fact that was sent out.

Inspector Maese: Madam Chair, commissioners, that is correct. This is a prefabricated manufactured building. It is engineered to the specific specifications for New Mexico. It is engineered by a NM engineer. As far as what Commissioner Salas was asking, I do agree in the past that the complete packet has not been there. In this case, because the guest and washroom has been taken out of the plans this will then be considered by CID as a shell building only. Which is a foundation, four walls and a roof. So, other than what has been submitted to you today, that is going to be the exact same thing that we are going to get in our office. Now, if there were additional walls or rooms inside the building, that would constitute an additional set of plans or more structured set of plans. In this case, that is not the case.

Madam Chairperson Lucero: Thank you Mr. Maese.

Mr. Salazar: the plans will be stamped when the applicant picks up the plans to submit to CID. To make sure obviously to make sure they are the same plans.

Madam Chairperson Lucero: CID will be inspecting this building?

Inspector Maese: yes, Madam Chair, we will be inspecting.

Madam Chairperson Lucero: Ok, any other questions or concerns. Ok, I hear or see none, call for the vote please Mr. Salazar.

Mr. Salazar: Commissioner Jones?

Commissioner Jones: Yes, with the condition plans are submitted with his second proposal, no guest or washroom.

Mr. Salazar: Madam Chairperson Lucero?

Madam Chairperson Lucero: Yes

Mr. Salazar: Commissioner Salas?

Commissioner Salas: Yes, with the condition there are no bathrooms, toilet, sinks or a guest room.

Mr. Salazar: Commissioner Rockstraw?

Commissioner Rockstraw: Yes, with the conditions mentioned by Commissioner Salas.

Mr. Salazar: Madam Chair, it is 4 to 0. Motion Passes

Madam Chairperson Lucero: Ok, moving on, our next case is rezone 061679 at 2750 Old Farm Road submitted by Enrique and Melanie Vigil. Mr. Salazar.

Mr. Salazar: this is case number 061679 it was submitted as you stated Madam Chair by Enrique and Melanie Vigil. Requesting approval to rezone their property at 2750 Old Farm Rd from a Residential Agricultural zone to Residential single family. Mr. and Mrs. Vigil have contracted Moy Surveying to represent them in this case. The property is 3 acres and they wish to subdivide it into 3 individual acre parcels. Mesilla zoning map shows the property to the left as R1, shows the property on the north to be rural farm, the property on the east to be rural farm and the property on the south to be R1, single family zone.

All the public notices were adhered to. This is a follow-up from the hearing that we had August 21st, were we heard Mr. Anton represent the Vigil family. This case is an action and consideration to determine if the request would be approved or not.

During the hearing on August 21st, the commission as expected to vote, I advised the commission to postpone the vote due to some investigations I need to complete. There was some information that was provided to me at the end toward the end of the day, before the meeting. I felt I needed to follow up with the new information and give the commission a more thorough case.

What I have found out is the property that is to the left of our zoning map that is considered to be residential zone, that property is also 3 acres. It also has a lodge on that property. My first question is that lodge a commercial property? If so, why is it in the residential zone?

I did have an opportunity to visit a good friend of mine at the Dona Ana County Community Development, Mr. Ernie Campos. I know Mr. Campos for some time and rely on him sometimes to help me with some cases. Mr. Campos was actually very familiar with this property and its surrounding properties as well.

That property mentioned on the west, is again 3 acres, with a lodge. Dona Ana is taxing two of the 3 acres as commercial agriculture and one of the acres as residential. I also, spoke with Randy Brown, he is the new administrator at Dona Ana Daylight Lodge. He was not able to give me any information on his property regarding the zoning.

Another thing I did was to look into the zoning map because there was a comment made that it was incorrect. I researched it with the records I have at my disposal and concluded up to 2009, there were no changes on it.

If the commission wishes, I would like to invite Mr. Campos to answer any questions the commission might have.

Madam Chairperson Lucero: yes, we would like to hear from Mr. Campos. Mr. Campos please state your name, where you are from and your profession.

Mr. Campos: hi, Ernie Campos, employed by Dona Ana County, here to help supply information regarding original Raley Farm Acres during 2001. During that tenure, our planner was Gina Gentile, so in order for the applicant to construct the home on the Raley farm was never subdivided. They requested to do a subdivision whenever I was with Moy Surveying. OK long story short we prepared Raley Farms. Ten Acres, Old Farm Rd, 20 acres. However, when they have the 20 acres there was the Raley Farm family that was deeded out parcels to the family that were within the farm. Years went on and it was replated from one acre lots to five acre lots. You have to comply and respect the zoning which one side is RF and the other side is RA. Correct? Going off memory.

Other than that, other than that, if the commission has any questions, I will be glad to answer them. I am for or against the case, I am here to provide information for your case and hope to provide information to make it easier to make a decision.

Madam Chairperson Lucero: when you were working Moy Surveying, did you at the time come to the Town of Mesilla to get it legally subdivided.

Mr. Campos: yes, that is correct.

Madam Chairperson Lucero: ...for the 5 acres. To preserve the green belt.

Mr. Campos: that is correct, in order for the house to be constructed on the farm, in order to get a permit, a subdivision plat had to be taken care of for the 3 acres.

Madam Chairperson Lucero: Ok, we are talking now to request to rezone Vince property at this time and we did see they want to do one-acre tracts. You are saying they used to be one-acre tracts back then and now they want to bring it back.

Mr. Campos: the way the Raley Farms was originally platted out was just by meets and bounds descriptions. So, we had to officially had to create a subdivision at the time to meet compliance with the zoning.

So fast forward, here we are tonight, I believe the applicant is requesting to increase the lots, am I correct?

Mr. Salazar: yes, that is correct. They wish to change their parcel of 3-acres to 1-acre parcels. So now, it is up to the commissioners to decide yes or no.

Madam Chairperson Lucero: when the applicant proposed the request in our hearing, did the request conform to the one-acre R1 zone requirement. Did they conform.

Mr. Salazar: no, after speaking with the gentleman, from Moy Surveying, Anton, his response was, those parcels that were submitted with the rezone request was to identify which parcels they wanted to be rezoned. It was not a submission for a subdivision, it was again, only to identify which parcels they were requesting for rezoning.

Madam Chairperson Lucero: we know that there are solar panels at the end of the house property. You know and that can not be reduced, probably has to stay there.

Mr. Salazar: that is correct

Madam Chairperson Lucero: what I am saying is, it didn't meet requirements for zoning to R1. Even though, they are not wanting to submitted it now. We have to consider the future of Mesilla and whether or not, we are going to allow to chip away our green zone. People that bought that property back then were aware that property was in the green zone even though when they didn't want to (inaudible) they are the same residents, here protesting not to allow anybody to build what they wanted to build out there. They wanted to remain as a green zone. They were very adamant, they spoke their mind at these meetings.

I don't think it is our duty to change the look of this greenbelt. There was a comment made by Mr. Cook, about that subdivision that is within the greenbelt. That is not usual, that yellow strip has never been before the commission and it is not legal. That has not been in front of the P&Z or the Board o Trustees. So, as far as we are concerned, that is in the greenbelt. We have no record. We try to do our research, I have done my research, Mr. Campos has done his research. He is very knowledgeable and he has done a lot of work for me and I appreciate it. Another thing, I did read the letter that was sent to the people via certified letter and never once did it say the reason for the rezone. For people to consider the rezone, they should be told why it is being rezoned. The people need to know why. Now, the question was, did it meet our R1 zone.

Mr. Salazar: as it stands right now, no.

Madam Chairperson Lucero: ok, now I don't think it should even come before us because it does not meet R1 zone regulations. There are regulations that we have to go by and I don't feel it is our job to vote on this because this will make a change in Mesilla drastically. There will be a number of developers. Do why want that? Commissioners, do any of you have anything to say?

Commissioner Rockstraw: I agree

Commissioner Salas: I kind of feel the same way. I think, this rezone doesn't bring anything to the Mesilla as a town itself. The rezone brings nothing to the Town of Mesilla really. Second of all, it is almost stuck in there like a lynch pin. I don't think we have pay rate to change the character of the green zone. It is not in our pay rate.

My personal opinion, we the Planning and Zoning and Board of Trustees, it states very strongly that we should keep the green zone in tack. It also states though, if there is going to be growth in Mesilla, that corridor is where it is going to end up being. I would not feel comfortable voting on something like that unless there is some sort of plan. It is just we are chipping away one way or the other on these things. For me, that is my concern. If we do this, it kind of opens everything up.

Madam Chairperson Lucero: I agree with Commissioner Salas because when we talk about subdividing and adding more homes here, we need to look at the foundation. We need the money for the infrastructure. Do we have to the money for the infrastructure? Do we? We don't. Do we have a water column that anybody can just come in and build? We don't. These are things that have to be looked at first before we even consider. If the future of Mesilla is going to be preserved, I believe that the planning commission, community developer and along with the Board of Trustees, we need to come up with a plan to preserve Mesilla. Something called a landscaping buffer. That we need to protect and nobody, no Wal-Mart and no this, but that is something that I have in mind.

What is the future of Mesilla? Do we want to get rid of our green belt. We do need to correct that map. So it is correct. It is incorrect. A lot people are mislead by that. It is more of burden to be honest, because we don't have a police force, we don't have the water, we just don't have the need. So, we need to preserve our green belt.

I don't know about the commission here. I don't think we should be voting on this. I think this is a very serious matter and I feel it should go before the Board of Trustees. It doesn't even meet the zoning. It shouldn't even go. That is my opinion.

Commissioner Rockstraw: I agree

Commissioner Jones: I ask what about a thought. When I first read this before me, I looked at it and thought, IF... IF, we were to do something like this, we haven't heard much talk about it since I got here. It will help protect the Town of Mesilla in the way it is. The subdivision that I live in, Mesilla Farms. Sometime, a long time ago. When a subdivider came in and wanted to build houses. I think one of the compromises was made at the time. If you are going to build it here, you are not going to be an R1. You are going to be a historic residential zone. That is the way that subdivision was finally put together. Which, control the style of the homes which we worry about in the Town of Mesilla. As Mesilla changes or modernizes or whatever you want to call it.

I think if this subject comes up again, simply just changing it to residential historical property, changes everything. Changes the requirement for building in there. The style has to be approved. That could be one way, to attempt to hold on to Mesilla the way we like to see it.

Madam Chairperson Lucero: well, I would like to keep the green belt. If we allow businesses, or housing development or whatever to come in and

Commissioner Jones: I am not trying to argue with you about it. I don't have any arguments there. It's just another way to approach some of these problems.

Mr. Salazar: noted

Anton Magallanez: can the applicant speak? (from the back)

Madam Chairperson Lucero: sure

Anton Magallanez: good evening commissioners, my name is Anton Magallanez with Moy Surveying, officially. Ernie is a good friend of mine for over 40 years. We also have the honor with us today, the owner, Mrs. Melanie Vigil as well.

So a couple of things that are important, I think to point out. It is interesting because I continue to hear about the green belt. I support that idea, whole heartedly. I love our community. As I stated before, our office is in this community. When I go to our Town of Mesilla code and search green belt, there is one instance of that within our whole document.

The only instance of "green belt" is in a cluster development. Which, that is not even the topic of conversation of what we are doing here. So, again, I think I support that idea and I do recognize the characteristics it gives our community, I think we are referring to it in ways that are very hard to understand because when anyone goes and searches green belt and what is defined, there is no information on what that is in the Town of Mesilla code that is published. You have to keep that in mind.

In the developing world, I've done this with the majority of the municipalities, county and a lot of different counties, development and zone change have no area of precedence. So, we can not sit here and say, we are opening precedence because development does not operate under precedence. I think it is important that a municipality maintain consistency and that is a challenge, because everyone's thought is if this happens the next person is going to come and say, "well you let them do that." But, we don't operate as a body of precedence when making decisions like this, it has to be understanding of code AND of course, consistency. That is where it gets very challenging.

You know, I did talk to Eddie about the inaccuracy of that map as it's claimed, with the zoning map. Any research that I have done over the course of time, all the searches have showed the properties as they are currently. But if it is in fact incorrect, you know that is going to take public comment from the trustees. Stating this should have been zoned this way, sorry and then what impact that would have with the constituents that are in incorrect zones according to that map. But again, I am just going off what we have as a reference. That says what the designations are with our lots. What we are talking about and of course the surrounding adjacent properties.

Raley acres was in fact the filed subdivision. So, Dona Ana acknowledges a legal piece of land to be separated via meets and boundaries by legal description from the year, 1994 or previously. So, I was a surveyor back in the 90s and I was going to give Ernie a piece of land, I can survey a piece, write in a legal description, record it and everyone was good with that. But then, after 1994, we then developed our code and the process of subdivision so that process doesn't exist any more.

So, Melanie provided this, in 1982 is the previous tract owners as it sat prior. So this 3 acre parcel that we are talking about was in fact from 1982 and even before 2001, 3 individual pieces. So, what I suspect happened is that there was a zoning designation to this piece of land that then rendered this piece of land, non-conforming. So we have 3 one-acre tracts that then had a zone designation on top of and said the minimum size has to be 3-acres. So then, it is stale. We can not do anything with either one of those lots because all 3 of them were non-conforming.

My recommendation would have been a the time, we should had requested a rezone then.

Because that zone designation should have not created this issue. But instead, Raley Acres were developed and this subdivision vacated those individual lots. Now this 3-acre piece will conform with the zoning which is 3-acre minimum that is RA. So a little bit of context to that, these were initially one acre pieces and the United States proclamation stated they surveyed this area and development of one acre pieces. I believe then the designation of zoning from the Town of Mesilla made them non-conforming. Which isn't uncommon but the solution at that time would have been to rezone rather than sub... we call it a subdivision but it is not even that, it is really vacating those individual lines.

So, they were originally 3, they got replated so that now they are one 3-acre parcel and yes they are requesting is to change the zone that they can then subdivide into one acre parcels.

The other thing that I think is important to remember is, while I recognize and understand that the plan of what is to happen is very important. This is a zone change meeting and just that. To base a determination on what the subdivision process is going to look like, I think it is a little unjust.

Because there is a numerous things that are going to happen with that subdivision.

If this zone change was approved, it means this parcel can then turn around and have 3 one-acre tracts. They made decide they only want two. Between now and when that subdivision gets approved. They may decide they want 3 but can't fit it because of the solar panels. Again, those process are going to be filtered out and then go through the subdivision process along with infrastructure requirements and all those things as they are the requirement of the developer as well. So, to say that two lots that we are creating, the Town of Mesilla doesn't have the infrastructure for, we have like 12 or 15 lots subdivision that was just built right east of the middle school not very long ago. I think maybe it was 5 to 10 years. So, it seems it is somewhat of mood point for me to understand that and again the infrastructure and the burden of that falls under the developer. Which if they want two extra lots, they are going to have to then do whatever improvement infrastructure warrant that of course.

I'd like to let Melanie come up here and speak and explain her intent. I know last time, she wasn't available because of a procedure Mr. Vigil had to have but she was able to make it today. I think it is important you all hear from her. Thank you

Melanie Vigil: Hi, again, my name is Melanie Vigil and my husband would of loved to have been here. Two weeks ago, he had a triple bi surgery. So, I am a little emotional because he is doing well but he would of loved to be here. So, I am here for him, I am not a very good speaker. I want the appointed to know that you know my father was a teacher here for 30 years. Many years ago, the residence remember my father coaching La Tuna and I love Mesilla. My husband was gracious enough to allow us... a fight for our land or to build on in Mesilla. I just love Mesilla.

So, we did buy my 3-acres in Raleys and got to meet each owner. They had fought for so many years that they had tried to sell the land but Mesilla wouldn't allow them to. So, my husband had an agreement with them, if I could try to get the land approved to sell, I would like to buy it from you for my wife. It took him 2 years and Mesilla said, we will only allow you to build the acres to 3 acres. A 3-acre lot. It took two years and some of you guys in this room remember. Look you guys, you know my husband fought hard to get it for me because I love Mesilla.

Ok, with that said, we have the 3-acres we love but it is very hard to maintain a crop with the two acres next to our house. It is very hard because of the water rights. He has tried several times but he just doesn't have enough water. The 2-acres that are next to our house are beautiful because they are must dirt. My husband is a hard worker, farmer. Maintains it very well and goes out of his way to maintain the road that is not ours. He maintains everything, because he is a very hard worker. He does not like a mess.

So now, I have a son. Practicing attorney what wants to come back to live here. Him and his wife. We said hey, if we could divide this land, we would love to give it to you to move next door to us but you know, we are kind of in a bind.

So, we would love to ask if you would dearly consider allowing us to divide our land so our son can move back here. Also, now that my husband got his surgery, he can't maintain the 2-acres. As much as he has done all this time. I know there are maybe some people against it but our home is very neat. I don't know if you have seen it. He keeps it very well. That is all and thank you for listening.

Madam Chairperson Lucero: thank you. I understand you but when you bought that property you knew what the circumstances are. It is sad but if (inaudible due to coughing-1:04:51-1:04:55)green belt, we lost it. Everybody has a story and I don't think that here, the Planning and Zoning we have the right to make that decision. It will change Mesilla, which ever way we go. I don't think it is up to us. I don't feel comfortable opening that up for any more discussion right now. You can still comment but to vote on it, I don't think it is appropriate. That is my opinion. I think the Board of

Trustees should be hearing this case IF, it doesn't even meet the R1 zone. This shouldn't even go anyway. That is my opinion, we can get a legal opinion on it.

Mr. Salazar: Madam Chair if I may. I understand what you are saying the heavy responsibility on this commission and you would like for the BOT to also have an opinion/vote on this...

Madam Chairperson Lucero: actually, I think maybe we need to ask the mayor if this meets...because again, we...first of all it doesn't meet the R1 zone. You said no.

Mr. Salazar: that is correct

Commissioner Salas: it shows in one of the lots, it is .088 acres.

Mr. Salazar: as the applicant mentioned, the reason for the replat was to identify which property the applicant was requesting to rezone. That is not the plans for those lots, if the rezone is approved to be subdivided. Again, that is only to identify the parcels are being requested for a rezone. Again, this a request for a zoning and not a subdivision.

Madam Chairperson Lucero: so if he gets through the rezone, then he would need to request a subdivision.

Mr. Salazar: that is correct, it will follow if approved. But, that is the decision of the commission...

Madam Chairperson Lucero: and spot zoning.

Mr. Salazar: I am just here to give information. I also, do advise that the commission does need to vote. Even if the vote is to deny, obviously the applicant would have 10 days to appeal the decision according to code and it would then go to the BOT. Because the hearing was heard by the commission and it is listed on the agenda as an action item. It does need to be voted on.

Madam Chairperson Lucero: Mr. Ernie Campos, is this wrong? You are (inaudible 1:07:44-1:07:48).....is that correct Mr. Campos?

Ernie Campos: yeah, and for the record, I am here as a civilian. I want no conflict of interest. I don't want Fernando knocking on m door.

Madam Chairperson Lucero: my question is as in the planning department, I used to be a planning and zoning for the county.

Ernie Campos: yes ma'am.

Madam Chairperson Lucero: ok, I remember back then ALL (inaudible 1:08:07 -1:08:11) go to the planning department, everything before goes through the commission. In your professional opinion. Can I ask you a question in your personal opinion?

Ernie Campos: I'll do my best.

Madam Chairperson Lucero: I don't want to jeopardize your job. When something like this is presented to you that it is not meet a particular zoning requirement. Do you bring them before the commission.

Ernie Campos: Absolutely. We have a procedure where you can approve, deny or set a condition.

Madam Chairperson Lucero: so, if they go to you and say, this is what I want and you say well this doesn't meet a particular zone. Do you still put them through?

Ernie Campos: right, every person has a right to apply for a zone change. Depending on the impact it is going to have. If its going to be a quasi spot zoning then we will let the owner know they may get opposition and staff may recommend denial, but we need to gather all the information. Case by case basis. We just had one, a couple of months ago, and a lot of people were protesting. It was for a Dollar Store down south. They said, no we don't want it, too much traffic an too much noise. Get it out of here. Even though we recommended approval. It's a case by case basis. I hope I answered your question.

Madam Chairperson Lucero: you did. Thank you very much Mr. Campos. Alright, anything else you all want to add.

Commissioner Salas: I want to ask Anton something real quick. It's probably nothing but I am just curious. Why did you present it like this? If I am understanding correctly, that the lines could change...

Anton Magallanes: uh-hu...

Commissioner Salas: why was it brought, cause that is what I...

Anton Magallanes: of course, when you are looking at this, we know that there are set backs that we need to satisfy. The request of the applicant at the time wanted the lot line showing right under the one acre minimum. Again with any municipality, I am sure the Town of Mesilla is no different. If we are requesting something, which again it is not via this process but if we are requesting something that is not to code standards, there is a various process for all of this. That variance process might get shut down immediately, right? You might look at that and see the lot size being .999 and the requirement is one and the Town of Mesilla may say, nope, it has to be one. They can rightfully so do so. But again, our policies and procedures allows us to in fact do so. So make a decision based on something that has its own due process I think it is very challenging for not only just myself because I know we are going to be facing a lot of the same conversations. Again if they decide to go with two lots we can reconfigure those. I think, it is doable that in fact have 3 one-acre lots because we have a total of 3-acres.

So, that is going to be a subject that is going to have its own meeting as well. The only other note that I failed to mention was, in the Town of Mesilla code, when we look in what the filing fee is for it says that it is to cover postage or mailing. No other municipalities that I have worked with, require that the applicant sent out the mailing on behalf of the town. Which I think it is a very interesting thing because he of course that do have a positive interest in people wanting them to. So, I don't think that it is actually the responsibility of the applicant or the owner to bear the letter to those within 100 feet. Are code says that the fee that we pay, in fact covers postage. So, if I am paying a fee to cover postage, then we are paying for letters as well. So again, I was surprise and had spoken with previous planning and zoning commissioners and they said they never had the applicant send the letters on their behalf. So, if in fact that letter was not to standards to state what it is, I'd say because maybe its because that is not the responsibility of the applicant. Did, I answer your question?

Commissioner Salas: yes, thank you

Madam Chairperson Lucero: it would also be considered spot zoning. Alright, anything else? Alright, guess we have to vote, our first thing, I am going to have to...ok, will ask any of the commissioners if there is a vote to approve 061679, I need a motion.

Commissioner Salas: I'll vote on it

Commissioner Rockstraw: I second

Madam Chairperson Lucero: Ok, first motion by Commissioner Salas and seconded by Commissioner Rockstraw. Any other discussion commissioners? Ok then, I think we are ready for the vote. As you vote, please state the reason for your vote. Mr. Salazar

Mr. Salazar: Commissioner Jones?

Commissioner Jones: no because of the green belt issue and because I don't think that it should be considered R1 if anything it should be considered Historical Residential.

Mr. Salazar: Madam Chair Lucero?

Madam Chairperson Lucero: no, because I also believe that it does not meet the R1 qualifications and I would like to keep the green belt.

Mr. Salazar: Commissioner Salas?

Commissioner Salas: no, for the same reason but mostly because it doesn't meet the R1 standard.

Mr. Salazar: Commissioner Rockstraw?

Commissioner Rockstraw: no, for the same reason my fellow commissioners have explained.

Mr. Salazar: Madam Chair, the vote is 0 to 4, the motion does not pass.

Madam Chairperson Lucero: thank you. Ok, moving forward, now we move on to commissioners and staff comments. Commissioners?

Commissioner Salas: I just have a comment. For the commission, I think we need to be really careful. I am talking about the bike rental. I think it is a great idea, but I think the way he went about it, I still think that that's. I think we are opening the door to other business that don't meet the business's rule and within the structure/within the own residence. I think this is more of a commercial type effort. Even though I think it is a great idea, I just don't think that a home occupation license was the proper use of that and think we are opening the door to other things than can come in.

Madam Chairperson Lucero: I would like to comment on that. Again, I would like to request the Board of Trustees to get help clarify a lot of these issues. The things that are coming up now that we are not quite sure. We need more clarification.

I would like to follow up on that as well. I understand and know exactly Commissioner Salas' concern and are talking about the home occupation business license should be within the home to where there is no evidence of any commercial or business coming out of that property. Right? You have to look at the intent of the code. Whenever somebody goes home, they don't want to see you know mechanics working on cars in the front yard for example. People want to go home and have peace of mind. Many of us that go home want our community to nice and clean, no heavy traffic, and the landscape of a residential neighborhood.

Then you also have to look what we refer to in law a term called Case Law. What is going to happen next after we vote on this, setting a precedence. If you look at the home occupations, we

have multiple home occupations that allow businesses to operate outside their homes via an office at their residence. So, you have to look at those. We just approved one for cannabis courier. He has an office at his home and operates outside his residence. We also have the farmers market, "El Mercado." People operating there outside their home and they take their business elsewhere. This gentleman is proposing to have an office in his home, and operate his business away from his home to try to comply with the code. That is how he put this packet together.

Commissioner Salas: with all due respect, I completely disagree with you in that. That business is not like a cannabis courier business. The guy is not getting any deliveries there. He is not delivering and he is not accepting. He is strictly running it out of his house. There is no one showing up at his house. He wanted a business license to run telephone, copy machine or whatever.

In this, as stated in his business proposal, at least 10 people will show up at his house the day to pick it up and when they drop it off. I guarantee you, it is going to be mostly at that house. That is not to say it is.. I think it is a great idea. I just don't think this classifies as a home occupation. That's what I was saying.

Madam Chairperson Lucero: Again, we need to ask the Board of Trustees to clarify this part of the ordinance.

Mr. Salazar: I applaud you all. I know a lot these decisions are not easy. It is not easy for me sometimes to try to understand the code and try to do the best we can. But that is why we have this process, right? I filter it, and you all filter it on some of these cases and the Board of Trustees make a decision.

Last comment I want to make is Mr. Anton made a comment he doesn't feel it is the applicant's responsibility to send out the notices. In our next meeting, I will have a reference to that so you all can assist in interpreting what I understood as being their responsibility.

Madam Chairperson Lucero: I was also under the impression that the Town of Mesilla sent out the notices. We have always done that, it's what I thought.

Mr. Salazar: next meeting, again I will have more information on that and we can discuss it and determine the proper steps so we can all be on the same page. That is all I have.

Madam Chairperson Lucero: anything else commissioners? If not, I will accept a motion to adjourn.

Commissioner Jones: slow move

Commissioner Rockstraw: second

Madam Chairperson Lucero: ok, first by Commissioner Jones and second by Commissioner Rockstraw. Call for the vote please.

Mr. Salazar: Commissioner Jones?

Commissioner Jones: Yes

Mr. Salazar: Madam Chair Lucero?

Madam Chairperson Lucero: Yes

Mr. Salazar: Commissioner Salas?

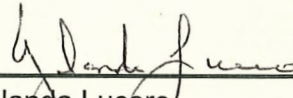
Commissioner Salas: Yes

Mr. Salazar Commissioner Rockstraw?

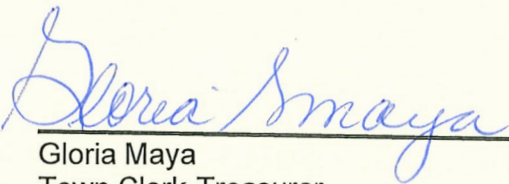
Commissioner Rockstraw: Yes

Mr. Salazar: Madam Chair, vote is 4 to 0.

Madam Chairperson Lucero: Thank you and everyone else for coming.



Yolanda Lucero
Chairperson



Gloria Maya
Town Clerk-Treasurer

