



# Town of Mesilla, New Mexico

## THE BOARD OF TRUSTEES (BOT) OF THE TOWN OF MESILLA

**REGULAR MEETING** AT THE MESILLA TOWN HALL,  
2231 AVENIDA DE MESILLA

**MONDAY, JUNE 23, 2025 – 6:00 P.M.**

### MINUTES

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL & DETERMINATION OF A QUORUM
3. CHANGES TO THE AGENDA & APPROVAL
4. **APPROVAL OF CONSENT AGENDA:** (The Board will be asked to approve by one motion the following items of recurring or routine business. The Consent Agenda is marked with an asterisk \*)
  - a) **\*BOT MINUTES** – June 9, 2025 Regular Meeting
  - b) **\*APPROVAL: PURCHASE REQUISITION** – Molzen/Corbin – Parking Lot Improvements – 31,428.71.
  - c) **\*APPROVAL: PURCHASE REQUISITION** – Molzen/Corbin - Parking Lot improvements - \$22,000.54.
  - d) **\*APPROVAL: PURCHASE REQUISITION** – Quality Window Tinting – Public Safety Building Renovations - \$2,135.32.
  - e) **\*APPROVAL: PURCHASE REQUISITION** - CES – Calle de Santiago - Bridge Improvements - \$123,366.78.
  - f) **\*APPROVAL: PURCHASE REQUISITION** – CES – Calle de Santiago - Bridge Improvements - \$100,078.73.
  - g) **\*APPROVAL: PURCHASE REQUISITION** – Antix, Inc. – Public Safety Building Renovations – \$3,974.00.
  - h) **\*APPROVAL: PZHAC CASE #062007** – 1730 Tierra de Mesilla, Suite #6, submitted by Assembly Create, LLC. Requesting approval for a sign permit. ZONE: Commercial (C).
  - i) **\*APPROVAL: PZHAC CASE #062008** – 1730 Tierra de Mesilla, Suite #6, submitted by Assembly Create, LLC. Requesting approval for a sign permit. ZONE: Commercial (C).
  - j) **\*APPROVAL: PERMIT CASE #062015** – 1730 Tierra de Mesilla, Suite #3A, submitted by Kristin Knight. Seeking permission to put up a sign for her Mental Health business. ZONE: Commercial (C).
5. **PUBLIC INPUT ON CASES** – The public is invited to address the Board as allowed by the chair.
6. **ACTION AND CONSIDERATION**  
**NEW BUSINESS**
  - a) **APPROVAL: PZHAC CASE #062009** – 2320 Calle de Santiago, submitted by Eric Liefeld & Trina Witter. Requesting approval to construct a fence around the north, south and east property line. ZONE Historical Residential (HR).
  - b) **APPROVAL: PZHAC CASE #062010** – 2488 Calle de Guadalupe, submitted by Old Town Investments (Madelyn’s). Requesting approval to build a wall/fence on commercial property. ZONE: Historical Commercial (HC).

- c) **APPROVAL: PZHAC SUBDIVISIONS #062018** – 3000 Snow Rd., submitted by Santana Ochoa. Requesting approval to subdivide in order to install a manufactured home on the property. ZONE: Rural Farm (RF).
- d) **APPROVAL: RESOLUTION 2025-40** – Setback Adjustment (MTC 18.60.300).
- e) **APPROVAL: RESOLUTION 2025-41** – Municipal Election
- f) **DISCUSSION ONLY:** Wireless Communication Facilities Amended Ordinance 18.54 (Draft).

7. **PUBLIC INPUT – The public is invited to address the Board as allowed by the chair.**

8. **BOARD OF TRUSTEE/STAFF COMMENTS**

- a) *Ongoing Projects Listing*
- b) *Calendar of Events*

9. **ADJOURNMENT**

**NOTICE**

If you need accommodation for a disability to enable you to fully participate in the hearing or meeting, please contact us at 524-3262 at least one week prior to the meeting. The Mayor and Trustees request that all cell phones be turned off or set to vibrate. Members of the audience are requested to step outside the Board Room to respond to or to conduct a phone conversation. A copy of the agenda can be found online at [www.mesillanm.gov](http://www.mesillanm.gov).

Posted **06.20.2025** online and at the following locations: Town Hall and Visitor's Center Avenida de Mesilla, Public Safety Building 2670 Calle de Parian, Mesilla Community Center 2251 Calle de Santiago, Short's Food Mart 2290 Avenida de Mesilla, and the U.S. Post Office 2253 Calle de Parian.

**\*\*BOT MEETINGS ARE AVAILABLE ON TOWN OF MESILLA'S YOUTUBE PAGE\*\***



# Town of Mesilla, New Mexico

1  
2 **THE BOARD OF TRUSTEES (BOT) OF THE TOWN OF MESILLA**  
3 **REGULAR MEETING AT THE MESILLA TOWN HALL,**  
4 **2231 AVENIDA DE MESILLA**

5 **MONDAY, JUNE 9, 2025 – 6:00 P.M.**

6 **MINUTES**

7  
8 **TRUSTEES:** Russell Hernandez, Mayor  
9 Adrianna Merrick, Mayor Pro Tem  
10 Biviana Cadena, Trustee (Absent)  
11 Stephanie Johnson-Burick, Trustee  
12 Gerard Nevarez, Trustee  
13

14 **STAFF:** Ben Azcarate, Marshal  
15 Edward Salazar, Econ & Com Development Director  
16 Greg Whited, Fire Chief  
17 Gloria S Maya, Town Clerk/Recorder  
18

19 **PUBLIC:** Kirk Scott Andy Embury  
20 Susan Krueger Jimmy Nevarez  
21 Heather Nevarez Mary Helen Ratje  
22

23 **1. PLEDGE OF ALLEGIANCE**

24 Mayor Hernandez led the Pledge of Allegiance.  
25

26 **2. ROLL CALL & DETERMINATION OF A QUORUM**

27 **Roll Call.**

28 **Present:** Mayor Hernandez, Mayor Pro Tem Merrick, Trustee Nevarez, Trustee Johnson-Burick.

29 **3. CHANGES TO THE AGENDA & APPROVAL**

30 **Motion:** To approve agenda, Moved by Mayor Pro Tem Merrick, Seconded by Trustee Nevarez.

31 **Motion passed unanimously.**

32 **4. APPROVAL OF CONSENT AGENDA:** (The Board will be asked to approve by one motion  
33 the following items of recurring or routine business. The Consent Agenda is marked with an  
34 asterisk \*)

35 a) **\*BOT MINUTES – May 27, 2025 Regular Meeting** *Approved by consent agenda*

36  
37 **Motion:** To approve agenda, Moved by Mayor Pro Tem Merrick, Seconded by Trustee Johnson-Burick.

38 **Motion passed unanimously**  
39

40 **5. PRESENTATIONS:**

41 a) **South Central Regional Transit District**

42 Mr. Scott made a presentation on the South Central Regional Transit District.  
43

44 Trustee Nevarez commented  
45

46 Mayor Hernandez commented  
47

1           **6. PUBLIC INPUT ON CASES – The public is invited to address the Board as allowed by the**  
2           **chair.**

3 Ms. Krueger commented

4  
5 Mr. Nevarez commented

6  
7           **7. ACTION AND CONSIDERATION**

8           **NEW BUSINESS**

9           **a) DISCUSSION ONLY:** Review of 4/10 work week and schedule  
10 Mayor Hernandez reviewed a 4/10 work week and schedule.

11  
12 Trustee Nevarez commented

13  
14 Trustee Johnson-Burick commented

15  
16 Mayor Pro Tem Merrick commented

17  
18           **b) DISCUSSION ONLY:** Wireless Telecommunications Communications Ordinance changes  
19 Mayor Hernandez reviewed the changes to the Wireless Telecommunication Communications Ordinance.

20  
21 Mr. Salazar commented

22  
23 Trustee Johnson-Burick commented

24  
25 Mayor Pro Tem Merrick commented

26  
27           **c) APPROVAL: PROCLAMATION** – 2025 Severe or Extreme Drought Conditions  
28 Fire Chief Whited presented a proclamation – 2025 Severe or Extreme Drought Conditions.

29  
30 **Motion: To approve Proclamation – 2025 Severe or Extreme Drought Conditions, Moved by Mayor**  
31 **Pro Tem Merrick, Seconded by Trustee Johnson-Burick.**

32 Fire Marshal Embury commented

33 Trustee Johnson-Burick commented

34 Trustee Nevarez commented

35 Mayor Hernandez commented

36 **Original Motion Roll Call Vote: Motion passed (summary: Yes-3)**

37 Mayor Pro Tem Merrick   Yes

38 Trustee Johnson-Burick   Yes

39 Trustee Nevarez            Yes

40  
41 **Amended Motion: To approve Proclamation – 2025 Severe or Extreme Drought Conditions**  
42 **w/verbiage changes in Section 2, Moved by Trustee Johnson-Burick, Seconded by Mayor Pro Tem**  
43 **Merrick.**

44  
45 **Amended Motion Roll Call Vote: Motion passed (summary: Yes-3)**

46 Mayor Pro Tem Merrick   Yes

47 Trustee Johnson-Burick   Yes

48 Trustee Nevarez            Yes

1 **Second Amended Motion: To approve Proclamation – 2025 Severe or Extreme Drought Conditions**  
2 **w/proclamation changes, Moved by Mayor Hernandez, Seconded by Mayor Pro Tem Merrick.**

3  
4 **Amended Motion Roll Call Vote: Motion passed (summary: Yes-3)**

5 Mayor Pro Tem Merrick Yes  
6 Trustee Johnson-Burick Yes  
7 Trustee Nevarez Yes

8  
9 **d) APPROVAL: RESOLUTION 2025-38 – Arts & Culture Ordinance**  
10 Mayor Hernandez reviewed Resolution 2025-38 – Arts & Culture Ordinance.

11  
12 **Motion: To approve Resolution 2025-38 – Arts & Culture Ordinance, Moved by Mayor Pro Tem**  
13 **Merrick, Seconded by Trustee Johnson-Burick.**

14  
15 **Motion Roll Call Vote: Motion passed (summary: Yes-3)**

16 Mayor Pro Tem Merrick Yes  
17 Trustee Johnson-Burick Yes  
18 Trustee Nevarez Yes

19  
20 **e) APPROVAL: RESOLUTION 2025-39 – Solid Waste Fees**  
21 Mayor Hernandez reviewed Resolution 2025-39 – Solid Waste Fees.

22  
23 **Motion: To approve Resolution 2025-39 – Solid Waste Fee, Moved by Mayor Pro Tem Merrick,**  
24 **Seconded by Trustee Johnson-Burick.**

25  
26 **Motion Roll Call Vote: Motion passed (summary: Yes-3)**

27 Mayor Pro Tem Merrick Yes  
28 Trustee Johnson-Burick Yes  
29 Trustee Nevarez Yes

30  
31 **f) APPROVAL : PURCHASE REQUISITION – Alph Southwest – Well #1 Repair -**  
32 **\$12,217.30.**

33 Mayor Hernandez reviewed Purchase Requisition – Alph Southwest – Well #1 Repair at the cost of  
34 \$12,217.30.

35  
36 **Motion: To approve Purchase Requisition – Alph Southwest – Well #1 Repair - \$12,217.30, Moved**  
37 **by Mayor Pro Tem Merrick, Seconded by Trustee Johnson-Burick.**

38  
39 **Motion Roll Call Vote: Motion passed (summary: Yes-3)**

40 Mayor Pro Tem Merrick Yes  
41 Trustee Johnson-Burick Yes  
42 Trustee Nevarez Yes

43  
44 **g) APPROVAL: NMTD COOP Agreement: NMTD ~ \$23,278 & ToM Match ~ \$11,638**  
45 **= Total Value ~ \$34,914**

46 Mayor Hernandez reviewed the NMTD COOP Agreement with NMTD - \$23,278 & ToM Match - \$11,638  
47 = Total Value - \$34,914.

48  
49 **Motion: To approve NMTD COOP Agreement: NMTD ~ \$23,278 & ToM Match ~ \$11,638 = Total**  
50 **Value ~ \$34,914, Moved by Mayor Pro Tem Merrick, Seconded by Trustee Johnson-Burick.**

51  
52 **Motion Roll Call Vote: Motion passed (summary: Yes-3)**

1 Mayor Pro Tem Merrick Yes  
2 Trustee Johnson-Burick Yes  
3 Trustee Nevarez Yes  
4

5 **8. PUBLIC INPUT – The public is invited to address the Board as allowed by the chair.**  
6 Ms. Ratje commented  
7

8 **9. BOARD OF TRUSTEE/STAFF COMMENTS**

- 9 a) *Ongoing Projects Listing*  
10 b) *Calendar of Events*

11 Marshal Azcarate gave a department (Marshal) update.  
12

13 Fire Chief Whited gave a department (Fire) update.  
14

15 Mr. Astorga gave a department (Public Works) update.  
16

17 Mr. Salazar gave a department (Com/Economic Development ) update.  
18

19 Ms. Maya gave a department (Finance) update.  
20

21 Trustee Johnson-Burick commented  
22

23 Mayor Pro Tem Merrick commented  
24

25 Mayor Hernandez commented  
26  
27

28 **10. ADJOURNMENT**

29 **The Town of Mesilla Trustees unanimously agreed to adjourn the meeting. (Summary: Yes-3).**

30 **MEETING ADJOURNED AT 7:26 P.M.**  
31

32 **APPROVED THIS 23rd DAY OF JUNE, 2025.**  
33  
34

35 \_\_\_\_\_  
36 **Russell Hernandez**  
37 **Mayor**

38 **ATTEST:**  
39

40 \_\_\_\_\_  
41 **Gloria S. Maya**  
42 **Town Clerk/Treasurer**  
43  
44

**\*\*BOT MEETINGS ARE AVAILABLE ON TOWN OF MESILLA'S YOUTUBE PAGE\*\***

# Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check     Purchase Order

DATE: 6/13/25

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	35-535-3599	DESTINATION FORWARD GRANT		
		PARKING LOT IMPROVEMENTS		\$29,117.42
		PROFESSIONAL ENGINEERING SERVICES		\$2,311.29
		DESIGN PHASE FOR PARKING LOT		
		-CURA RAMON ORTIZ PARKING LOT		

FUND CODE 35-535-3599	AMT from FUND \$31,428.71	FUND AMT Remaining	SUBTOTAL	\$29,117.42
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	\$2,311.29
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$31,428.71

VENDOR NAME	MOLZEN CORBIN
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY BRIANA GOMEZ	DATE 6/13/25
AUTHORIZED BY <i>Doreen Mayu</i>	DATE 06.13.2025



# MOLZENCORBIN

January 7, 2025

Lorenzo Astorga  
Public Works Director  
Town of Mesilla  
P.O. Box 10  
2231 Avenida de Mesilla  
Mesilla, NM 88046

**Re: Professional Engineering Services Proposal for Design Phase Services for Parking Lot Improvements– Cura Ramon Ortiz Park – Parking Lot Improvements  
Funding:**

Dear Mr. Lorenzo Astorga:

Molzen Corbin is pleased to provide this proposal for the design and survey services for the above-referenced project.

## **SCOPE**

This project consists of designing the reconstruction of the parking lot located at the Cura Ramon Ortiz Park located at the corner of Calle de Santiago and Calle de Picacho. A geotechnical report will be provided by a subcontractor for the pavement design based on the local traffic load condition anticipated for a parking lot. Other scope elements are as follows:

- Coordination with the Town of Mesilla as needed
- Evaluation of parking lot for drainage
- Geotechnical evaluation
- Topographic survey of the park
- Details for parking lot
- Striping plan and details
- Plan & profile sheets indicating grades, details, and general sheets.
- Applicable design elements for concrete pads, sidewalks, and driveway connections.
- Surface drainage considerations will be included at the locations described above.
- Provide bidding documents, plans, and specifications.
- Grant assistance
- Environmental certification assistance

Any deviation by more than 10% from the total amount provided therein shall be documented by Molzen Corbin for possible additional compensation by the Town of Mesilla if the scope of the project changes from that provided here. The Town of Mesilla will also provide Molzen Corbin with any standard details, design standards, construction contract documents, standard specifications, record drawings, or other Town of Mesilla required documents needed to be included in the project.

**Survey – Special Service**

- The Survey of existing topography along the alignment including existing utility locations as marked in the field. Molzen Corbin will provide ground field surveys of the terrain and the above-ground features as needed to complete the project. Molzen Corbin will provide surveys to define the apparent right of way based on adjacent properties. We don't anticipate any right-of-way acquisitions.

**Environmental Clearances– Special Service**

- The Scope of Work (SOW) for this project was developed in coordination with the New Mexico Historic Preservation Office (SHPO). The possibility remains that SHPO may require a cultural resources inventory to assess project effects, as the project falls within the limits of the La Mesilla Historic District which is listed on both the State Register of Cultural Properties as well as the National Register of Historic Properties. If the scope of work is expanded by the project proponent, SHPO, etc., (or if a cultural resources inventory is required) then a change order would be required to cover the additional tasks.

**Project Certifications– Special Service**

Based on the grant agreement we anticipate that all project certifications will be required.

- Molzen Corbin will provide Exhibits, coordination, and documentation for the Environmental certifications.

**SCHEDULE & BUDGET**

Molzen Corbin will provide the Town of Mesilla progress review drawings as shown in the project schedule below.

TIME FRAME		
Topographic Survey	30 days	From Notice to Proceed
Geotechnical Services	30 days	From Notice to Proceed
60% Preliminary Design	30 days	From Notice to Survey
100% Final Design (Stamped)	30 days	From receipt of review comments from the preliminary design
Bidding & award	45 days	Completion of final design
Construction Period	45 days	From Notice to Proceed
<b>Total days</b>	<b>210 days</b>	<b>Approximately Calendar Days</b>

Molzen Corbin will provide the Town with; the engineer's opinion of probable construction cost with each progress review, plan sets will be 24x36. Molzen Corbin will provide copies of bidding documents for bid distribution (5 sets); these costs are included in the proposal.

Molzen Corbin Proposes a fee of \$27,849.38 for the scope of services indicated herein. A summarized fee schedule is provided below.

BASIC AND ADDITIONAL SERVICES	
Design, Bidding/Award, Construction phase, and close-out	\$ 22,386.67
Topographic Surveying	\$ 3,000.00
Geotechnical, Sub-consultant (w/10% markup)	\$ 3,329.88
Miscellaneous expenses (mileage, copies, meals, etc.)	\$ 400.88
<b>Total (excluding NMGRT)</b>	<b>\$ 29,117.43</b>

All fees are exclusive of applicable NMGRT which will be added to all billings. Geotechnical services and environmental services are not included in this proposal. If you have any questions regarding this proposal, please call me.

Sincerely,

MOLZEN CORBIN



Wyatt Kartchner, P.E.  
Vice President, Southern Region Manager

# Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check     Purchase Order

DATE: 6/13/25

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	35-535-3599	DESTINATION FORWARD GRANT		
		PARKING LOT IMPROVEMENTS		\$20,382.19
		PLEASE PAY FROM 10-432		\$1,618.35

FUND CODE 35-535-3599	AMT from FUND \$22,000.54	FUND AMT Remaining	SUBTOTAL	\$20,382.19
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	\$1,618.35
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$22,000.54

VENDOR NAME	MOLZEN CORBIN
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY BRIANA GOMEZ	DATE 6/13/25
AUTHORIZED BY <i>Storia Mayra</i>	DATE 6.13.2025

# MOLZENCORBIN

Mesilla, Town of  
 PO Box 10  
 Mesilla, NM 88046  
 Lorenzo Astorga, Public Works Director

Invoice number 28424  
 Date 06/11/2025

Project MES251-11 CURA RAMON ORTIZ PARK -  
 PARK PARKING LOT

Professional Services Rendered Through May 31, 2025

PO #010-416

432 35-535-3599

Description	Contract Amount	Percent Complete	Prior Billed	Total Billed	Current Billed
Design	29,117.42	70.00	0.00	20,382.19	20,382.19
<b>Total</b>	29,117.42	70.00	0.00	20,382.19	20,382.19

Invoice subtotal	20,382.19
MES GRT	1,618.35
Invoice total	22,000.54

**Aging Summary**

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
28424	06/11/2025	22,000.54	22,000.54				
	<b>Total</b>	22,000.54	22,000.54	0.00	0.00	0.00	0.00

I hereby certify that the above statement is true and correct, that the services herein set forth have been furnished, and that payment has not been received,

  
 Robert Robeda

# Town of Mesilla Purchase Requisition



Requesting: (Please select one)  
 Check     Purchase Order

DATE: 6/10/25

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	35-535-3590	22-G2846 PSB RENOVATIONS		
		WINDOW TINTING		\$1,976.00
		TAX		\$159.32

FUND CODE 35-535-3590	AMT from FUND \$2,135.32	FUND AMT Remaining	SUBTOTAL	\$1,976.00
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	\$159.32
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$2,135.32

VENDOR NAME	QUALITY WINDOW TINTING
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY BRIANA GOMEZ	DATE 6/10/25
AUTHORIZED BY <i>Doris May</i>	DATE 06.16.2025

Quality Window Tinting  
 8200 Dripping Springs Rd.  
 Las Cruces, N.M. 88011



Mesilla Fire Department  
 P O Box 10  
 2670 Calle de Parian  
 Mesilla, N.M. 88046

**INVOICE**

22-62846  
 PSB Renovations  
 35-535-3590

**Invoice #** 0000172  
**Invoice Date** 06/05/2025  
**Due Date** 06/05/2025

Item	Description	Unit Price	Quantity	Amount
	Window tint on garage doors and All South side Office Windows plus East side office.	1976.00	1.00	1,976.00
<p><b>NOTES:</b> Quality Window Tinting will provide all necessary labor, materials, and equipment for scope of work.</p> <p>Materials used: 5% Night Scape Film.</p> <p>Prices subject to change: additional square footage added, and or change orders not listed on scope of work.</p>				
		<b>Subtotal</b>		1,976.00
		+ Tax new tax rate 202 (8.063%)		159.32
		<b>Total</b>		2,135.32
		<b>Amount Paid</b>		0.00
		<b>Balance Due</b>		\$2,135.32

# Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check     Purchase Order

DATE: 6/13/25

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	35-535-3578	<b>LP10037- PO10-428</b>		
		Calle de Santiago Bridge Improvements		\$114,292.00
		Pay Applications 1 and 2	Tax	\$9,074.78

FUND CODE 35-535-3578	AMT from FUND \$123,366.78	FUND AMT Remaining	SUBTOTAL	\$114,292
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	\$9,074.78
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$123,366.78

VENDOR NAME	<b>CES</b>
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY BRIANA GOMEZ	DATE 6/13/25
AUTHORIZED BY <i>Briana Gomez</i>	DATE 06.13.2025

PO 10-428

35-535-3578



<b>Pay App 1</b>				Town of Mesilla - <b>Calle De Santiago Bridge Improvements</b>			
<b>OWNER:</b>  TOWN OF MESILLA PO BOX 10 MESILLA, NM 88046		<b>CONTRACTOR:</b> <b>A MOUNTAIN PROFESSIONAL CONSTRUCTION LLC</b> 1177 SCOGGINS Las Cruces, NM 88005		PROJECT NAME & PROJECT NO:			
				PAGE 1 OF 2 PAGES			
				<b>PERIOD OF ESTIMATE</b>			
				FROM: 2/1/25	TO: 2/28/25		
<b>CONTRACT CHANGE ORDER SUMMARY</b>				<b>PAY ESTIMATE</b>			
Modification and/or Change Order No.	Owner Approval Date	Amount		1. Original Contract Value	\$ 495,685.70		
		Additions	Deductions	2. Modifications/Change Orders	\$ -		
				3. Revised Contract (1 + 2)	\$ 495,685.70		
				4. Work Completed*	\$ 45,797.00		
				5. Stored Materials * (this period)	\$ -		
				6. Subtotal (4 + 5)	\$ 45,797.00		
				7. Retainage @ 0 %			
				8. Less Previous Payments	\$ -		
				9. Subtotal (6-7-8)	\$ 45,797.00		
				10. NMGR @ 7.9400%	\$ 3,636.28		
<b>TOTALS</b>		\$ -	\$ -	11. Amount Due This Estimate (9+10)	\$ 49,433.28		
<b>NET CHANGE</b>			\$ -	* Detailed Breakdown Attached			
<b>CONTRACT TIME</b>							
Original (days) _____		<b>Project On Schedule:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Project Start Date: _____			
Current _____				Project Completion Date: _____			
Remaining _____							
<b>ORIGINAL CONTRACT PERCENT COMPLETE</b>				<b>ACCEPTED BY OWNER</b>			
TIME: _____		FUNDS: _____		Owner: <u>Town of Mesilla</u>			
<b>CURRENT CONTRACT PERCENT COMPLETE</b>				By: <u>Brienne King</u>			
TIME: _____		FUNDS: _____		Date: <u>5/29/25</u>			
<b>CONTRACTOR'S CERTIFICATION</b>				<b>ARCHITECT OR ENGINEER'S CERTIFICATION</b>			
<p>The undersigned Contractor certifies that to the best of his/her knowledge, information and belief, the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the Contractor for which previous payment estimates was issued and payments received from the Owner, and that current payment shown herein is now due.</p>				<p>The undersigned certifies that the work has been carefully inspected and to the best of his/her knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.</p>			
						Amount Certified: <u>\$49,433.28</u>	
						Engineer <u>Amanda Lara</u>	
Contractor: <u>[Signature]</u>		By: <u>Amanda Lara</u>		Date: <u>5/29/2025</u>			
By: <u>Bridget Spedalleri</u>		<b>FUNDING AGENCY APPROVAL</b>					
Date: <u>3-6-2025</u>		By: _____					
		Date: _____					

2

Calle De Santiago Bridge Improvements

ITEM NO.	DESCRIPTION	UNIT	Contract Amounts		Previous Billings		Current Billings		Billed to Date		Remaining			
			QUANTITY	UNIT PRICE	AMOUNT	Quantity	Amount	Quantity	Amount	Quantity	Amount	%	Amount	%
1	Miscellaneous removals and Disposal, Complete	CY	556	\$ 30.00	\$ 16,680.00		\$ -		\$ -	0	\$ -	0%	\$ 16,680.00	100%
2	Borrow, Complete in place	CY	350	\$ 25.00	\$ 8,750.00		\$ -		\$ -	0	\$ -	0%	\$ 8,750.00	100%
3	3" Asphalt Concrete Surface Course, Complete in place	SY	1480	\$ 18.00	\$ 26,640.00		\$ -		\$ -	0	\$ -	0%	\$ 26,640.00	100%
4	6" Crushed Aggregate Base Course, Complete in place	SY	1480	\$ 8.00	\$ 11,840.00		\$ -		\$ -	0	\$ -	0%	\$ 11,840.00	100%
5	12" Subgrade Preparation, Complete in place	SY	1480	\$ 3.00	\$ 4,440.00		\$ -		\$ -	0	\$ -	0%	\$ 4,440.00	100%
6	Prime Coat, Complete in place	SY	1480	\$ 1.50	\$ 2,220.00		\$ -		\$ -	0	\$ -	0%	\$ 2,220.00	100%
7	Track Coat Asphalt Edges, Complete in place	LF	55	\$ 6.00	\$ 330.00		\$ -		\$ -	0	\$ -	0%	\$ 330.00	100%
8	Pavement Patch, include 3" of asphalt concrete, 4" base course, subgrade preparation, complete in place	SY	200	\$ 45.00	\$ 9,000.00		\$ -		\$ -	0	\$ -	0%	\$ 9,000.00	100%
9	Concrete driveway construction, subgrade preparation, base course, complete in place	SF	1840	\$ 15.00	\$ 27,600.00		\$ -	474.00	\$ 7,110.00	474	\$ 7,110.00	26%	\$ 20,490.00	74%
10	Colored Concrete sidewalk, subgrade preparation, to include ADA header curb, complete in place	SF	1455	\$ 12.00	\$ 17,460.00		\$ -	1,026.00	\$ 12,312.00	1026	\$ 12,312.00	71%	\$ 5,148.00	29%
11	Colored Concrete pavers, 1" of sand bed, 4" base course, subgrade preparation, complete in place	SF	1147	\$ 18.00	\$ 20,646.00		\$ -		\$ -	0	\$ -	0%	\$ 20,646.00	100%
12	Brick sidewalk, 1" of sand bed, 4" base course, subgrade preparation, complete in place	SF	855	\$ 20.00	\$ 17,100.00		\$ -		\$ -	0	\$ -	0%	\$ 17,100.00	100%
13	Brick repair, Complete in place	SF	300	\$ 22.00	\$ 6,600.00		\$ -		\$ -	0	\$ -	0%	\$ 6,600.00	100%
14	Colored Standard Curb and gutter, complete in place	LF	600	\$ 32.00	\$ 19,200.00		\$ -		\$ -	0	\$ -	0%	\$ 19,200.00	100%
15	6" Colored concrete curb, complete in place	LF	455	\$ 30.00	\$ 13,650.00		\$ -	455.00	\$ 13,650.00	455	\$ 13,650.00	100%	\$ -	0%
16	2' Colored rollover curb, complete in place	LF	140	\$ 32.00	\$ 4,480.00		\$ -		\$ -	0	\$ -	0%	\$ 4,480.00	100%
17	2.5' Colored rollover curb, complete in place	LF	255	\$ 35.00	\$ 8,925.00		\$ -	148.00	\$ 5,180.00	148	\$ 5,180.00	58%	\$ 3,745.00	42%
18	Bridge Improvements, complete in place	LS	1	\$ 40,000.00	\$ 40,000.00		\$ -		\$ -	0	\$ -	0%	\$ 40,000.00	100%
19	Bridge Headwalls, complete in place	CY	24	\$ 2,000.00	\$ 48,000.00		\$ -		\$ -	0	\$ -	0%	\$ 48,000.00	100%
20	Bridge Weirwall lining, complete in place	CY	11	\$ 1,500.00	\$ 16,500.00		\$ -		\$ -	0	\$ -	0%	\$ 16,500.00	100%
21	Pedestrian Railing, complete in place	LS	1	\$ 10,000.00	\$ 10,000.00		\$ -	0.25	\$ 2,500.00	0	\$ 2,500.00	25%	\$ 7,500.00	75%
22	Vibration monitoring	LS	1	\$ 12,000.00	\$ 12,000.00		\$ -		\$ -	0	\$ -	0%	\$ 12,000.00	100%
23	Laboratory Testing Allowance	LS	1	\$ 8,000.00	\$ 8,000.00		\$ -	0.07	\$ 545.00	0	\$ 545.00	7%	\$ 7,455.00	93%
24	Traffic control including, pedestrian, plan, devices and management/maintained	LS	1	\$ 18,000.00	\$ 18,000.00		\$ -	0.25	\$ 4,500.00	0	\$ 4,500.00	25%	\$ 13,500.00	75%
25	6" C-900 Water line, complete in place	LF	415	\$ 48.00	\$ 19,920.00		\$ -		\$ -	0	\$ -	0%	\$ 19,920.00	100%
26	6" Gate Valve w/box, Complete in place	EA	1	\$ 1,996.00	\$ 1,996.00		\$ -		\$ -	0	\$ -	0%	\$ 1,996.00	100%
27	Non-pressure connections, complete in place	EA	3	\$ 3,500.00	\$ 10,500.00		\$ -		\$ -	0	\$ -	0%	\$ 10,500.00	100%
28	Remove & Dispose of AC water line, complete	LF	60	\$ 80.00	\$ 4,800.00		\$ -		\$ -	0	\$ -	0%	\$ 4,800.00	100%
29	Connection to existing manhole, complete in place	EA	1	\$ 2,500.00	\$ 2,500.00		\$ -		\$ -	0	\$ -	0%	\$ 2,500.00	100%
30	3/4" Water service connection, complete in place	EA	3	\$ 1,350.00	\$ 4,050.00		\$ -		\$ -	0	\$ -	0%	\$ 4,050.00	100%
31	Cap and Abandon, complete	LS	1	\$ 6,500.00	\$ 6,500.00		\$ -		\$ -	0	\$ -	0%	\$ 6,500.00	100%
32	4" C-900 Sewer Pipe, complete in place	LF	490	\$ 55.00	\$ 26,950.00		\$ -		\$ -	0	\$ -	0%	\$ 26,950.00	100%
33	2" Airvacuum release valve, complete in place	EA	1	\$ 4,500.00	\$ 4,500.00		\$ -		\$ -	0	\$ -	0%	\$ 4,500.00	100%
34	48" water line concrete encasement & 48" incremain concrete encasement, complete in place	LS	1	\$ 3,500.00	\$ 3,500.00		\$ -		\$ -	0	\$ -	0%	\$ 3,500.00	100%
35	Remove & Dispose of existing sewer pipe, complete	LF	40	\$ 14.55	\$ 582.00		\$ -		\$ -	0	\$ -	0%	\$ 582.00	100%
36	to include 65 LF of 2" conduit, fittings, 2 pull boxes, trenching/backfilling per detail and pull string, complete in place	LS	1	\$ 2,325.00	\$ 2,325.00		\$ -		\$ -	0	\$ -	0%	\$ 2,325.00	100%
37	Bollards, complete in place	EA	2	\$ 125.00	\$ 250.00		\$ -		\$ -	0	\$ -	0%	\$ 250.00	100%
38	Parking bumpers, complete in place	EA	2	\$ 150.00	\$ 300.00		\$ -		\$ -	0	\$ -	0%	\$ 300.00	100%
39	signing and striping	LS	1	\$ 2,500.00	\$ 2,500.00		\$ -		\$ -	0	\$ -	0%	\$ 2,500.00	100%

TOTAL BID LOT	459,234.00	45,797.00	45,797.00
INMGRT @ 7.9400%	36,463.18	3,636.26	3,636.26
Total with GRT	495,697.18	49,433.26	49,433.26

**INVOICE**

Design Technologies  
PO Box 531  
Falmores, NM 88033

dtechtesting@yahoo.com  
(575) 888-7311



**Bill to**  
A Mountain Construction  
1177 Scoggins Ave.  
Las Cruces, NM 88005

**Ship to**  
A Mountain Construction  
1177 Scoggins Ave.  
Las Cruces, NM 88005

**Invoice details**

Invoice no.: 25042  
Terms: Net 30  
Invoice date: 02/06/2025  
Due date: 03/08/2025

Project Name: Calle De Santiago  
D-Tech Job No.: 250111

#	Date	Product or service	Description	Qty	Rate	Amount
1.	01/16/2025	Density		1	\$65.00	\$65.00
<b>Total</b>						<b>\$65.00</b>

**Ways to pay**

**BANK**

**INVOICE**

Design Technologies  
PO Box 531  
Fairacres, NM 88033

dtechtsting@yahoo.com  
(575) 888-7311



**Bill to**

A Mountain Construction  
1177 Scoggins Ave.  
Las Cruces, NM 88005

**Ship to**

A Mountain Construction  
1177 Scoggins Ave.  
Las Cruces, NM 88005

**Invoice details**

Invoice no.: 25084  
Terms: Net 30  
Invoice date: 03/04/2025  
Due date: 04/03/2025

Project Name:: Calle De Santiago  
D-Tech Job No:: 250111

#	Date	Product or service	Description	Qty	Rate	Amount
1.	02/04/2025	Sample Concrete	1-4	2	\$65.00	\$130.00
2.	02/10/2025	Sample Concrete	5-8	2	\$65.00	\$130.00
3.	02/11/2025	Cylinder Break	1	1	\$30.00	\$30.00
4.	02/12/2025	Sample Concrete	9-12	2	\$65.00	\$130.00
5.	02/17/2025	Cylinder Break	5	1	\$30.00	\$30.00
6.	02/19/2025	Cylinder Break	9	1	\$30.00	\$30.00

**Total \$480.00**

**Ways to pay**

BANK

35-535-3578

PO10-428

<b>Pay App 2</b>		<b>Town of Mesilla - Calle De Santiago Bridge Improvements</b>
<b>OWNER:</b>  TOWN OF MESILLA PO BOX 10 MESILLA, NM 88046	<b>CONTRACTOR:</b> <b>A MOUNTAIN PROFESSIONAL CONSTRUCTION LLC</b> 1177 SCOGGINS Las Cruces, NM 88005	<b>PROJECT NAME &amp; PROJECT NO.</b>
		PAGE 1 OF 2 PAGES
		<b>PERIOD OF ESTIMATE</b>
		FROM: <u>3/28/25</u> TO: <u>4/30/25</u>

CONTRACT CHANGE ORDER SUMMARY				PAY ESTIMATE	
Modification and/or Change Order No.	Owner Approval Date	Amount			
		Additions	Deductions		
				1. Original Contract Value .....	\$ 495,685.70
				2. Modifications/Change Orders .....	\$ -
				3. Revised Contract (1 + 2) .....	\$ 495,685.70
				4. Work Completed* .....	\$ 114,292.00
				5. Stored Materials * (this period) .....	\$ -
				6. Subtotal (4 + 5) .....	\$ 114,292.00
				7. Retainage @ 0% .....	
				8. Less Previous Payments .....	\$ 45,797.00
				9. Subtotal (6-7-8) .....	\$ 68,495.00
				10. NMGRT @ 7.9400% .....	\$ 5,438.50
<b>TOTALS</b>		\$ -	\$ -	11. Amount Due This Estimate (9+10) .....	\$ <b>73,933.50</b>
<b>NET CHANGE</b>		\$ -	\$ -	* Detailed Breakdown Attached	

CONTRACT TIME			
Original (days) _____	<b>Project On Schedule:</b>		Project Start Date: _____
Current _____	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Project Completion Date: _____
Remaining _____			

ORIGINAL CONTRACT PERCENT COMPLETE			
TIME:		FUNDS	
CURRENT CONTRACT PERCENT COMPLETE			
TIME:		FUNDS	

ACCEPTED BY OWNER	
Owner: <u>Town of Mesilla</u>	
By: <u>[Signature]</u>	
Date: <u>5/2/25</u>	

CONTRACTOR'S CERTIFICATION	
<p>The undersigned Contractor certifies that to the best of his/her knowledge, information and belief, the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the Contractor for which previous payment estimates was issued and payments received from the Owner, and that current payment shown herein is now due.</p>	
Contractor: <u>[Signature]</u>	
By: <u>Bridget Spedalleri</u>	
Date: <u>4.30.25</u>	

ARCHITECT OR ENGINEER'S CERTIFICATION	
<p>The undersigned certifies that the work has been carefully inspected and to the best of his/her knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.</p>	
Amount Certified: <u>\$73,933.5</u>	
Engineer: <u>Amanda Lara</u>	
By: <u>[Signature]</u>	
Date: <u>5/29/2025</u>	

FUNDING AGENCY APPROVAL	
By: _____	
Date: _____	

Calle De Santiago Bridge Improvements

ITEM NO.	DESCRIPTION	UNIT	Contract Amounts			Previous Billings		Current Billings		Billed to Date		Remaining		
			QUANTITY	UNIT PRICE	AMOUNT	Quantity	Amount	Quantity	Amount	Quantity	Amount	%	Amount	%
1	Miscellaneous removals and Disposal, Complete	CY	556	\$ 30.00	\$ 16,680.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 16,680.00	100%
2	Borrow, Complete in place	CY	350	\$ 25.00	\$ 8,750.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 8,750.00	100%
3	3" Asphaltic Concrete Surface Course, Complete in place	SY	1480	\$ 18.00	\$ 26,640.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 26,640.00	100%
4	6" Crushed Aggregate Base Course, Complete in place	SY	1480	\$ 8.00	\$ 11,840.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 11,840.00	100%
5	12" Subgrade Preparation, Complete in place	SY	1480	\$ 3.00	\$ 4,440.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 4,440.00	100%
6	Prime Coat, Complete in place	SY	1480	\$ 1.50	\$ 2,220.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 2,220.00	100%
7	Tack Coat Asphalt Edges, Complete in place	LF	55	\$ 6.00	\$ 330.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 330.00	100%
8	Pavement Patch, include 3" of asphalt concrete, 4" base course, subgrade preparation, complete in place	SY	200	\$ 45.00	\$ 9,000.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 9,000.00	100%
9	Concrete driveway construction, subgrade preparation, base course, complete in place	SF	1840	\$ 15.00	\$ 27,600.00	474	\$ 7,110.00	-	\$ -	474	\$ 7,110.00	26%	\$ 20,490.00	74%
10	Colored Concrete sidewalk, subgrade preparation, to include ADA header curb, complete in place	SF	1455	\$ 12.00	\$ 17,460.00	1026	\$ 12,312.00	-	\$ -	1026	\$ 12,312.00	71%	\$ 5,148.00	29%
11	Colored Concrete pavers, 1" of sand bed, 4" base course, subgrade preparation, complete in place	SF	1147	\$ 18.00	\$ 20,646.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 20,646.00	100%
12	Brick sidewalk, 1" of sand bed, 4" base course, subgrade preparation, complete in place	SF	855	\$ 20.00	\$ 17,100.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 17,100.00	100%
13	Brick repair, Complete in place	SF	300	\$ 22.00	\$ 6,600.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 6,600.00	100%
14	Colored Standard Curb and gutter, complete in place	LF	600	\$ 32.00	\$ 19,200.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 19,200.00	100%
15	6" Colored concrete curb, complete in place	LF	455	\$ 30.00	\$ 13,650.00	455	\$ 13,650.00	-	\$ -	455	\$ 13,650.00	100%	\$ -	0%
16	2" Colored rollover curb, complete in place	LF	140	\$ 32.00	\$ 4,480.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 4,480.00	100%
17	2.5" colored rollover curb complete in place	LF	255	\$ 35.00	\$ 8,925.00	148	\$ 5,180.00	-	\$ -	148	\$ 5,180.00	58%	\$ 3,745.00	42%
18	Bridge improvements, complete in place	LS	1	\$ 40,000.00	\$ 40,000.00	-	\$ -	-	\$ -	1	\$ 20,000.00	50%	\$ 20,000.00	50%
19	Bridge Headwalls, complete in place	CY	24	\$ 2,000.00	\$ 48,000.00	-	\$ -	-	\$ -	24	\$ 48,000.00	100%	\$ -	0%
20	Bridge Wingwall lining, complete in place	CY	11	\$ 1,500.00	\$ 16,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 16,500.00	100%
21	Pedestrian Railing, complete in place	LS	1	\$ 10,000.00	\$ 10,000.00	0.25	\$ 2,500.00	-	\$ -	0	\$ -	25%	\$ 7,500.00	75%
22	Vibration monitoring	LS	1	\$ 12,000.00	\$ 12,000.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 12,000.00	100%
23	Laboratory Testing Allowance	LS	1	\$ 8,000.00	\$ 8,000.00	0.07	\$ 546.00	-	\$ -	0	\$ -	15%	\$ 6,960.00	87%
24	Traffic control including, pedestrian, plan, devices and management/maintained	LS	1	\$ 18,000.00	\$ 18,000.00	0.25	\$ 4,500.00	-	\$ -	0	\$ -	25%	\$ 13,500.00	75%
25	6" C-900 Water line, complete in place	LF	415	\$ 48.00	\$ 19,920.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 19,920.00	100%
26	6" Gate Valve w/box, Complete in place	EA	1	\$ 1,996.00	\$ 1,996.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 1,996.00	100%
27	Non-pressure connections, complete in place	EA	3	\$ 3,500.00	\$ 10,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 10,500.00	100%
28	Remove & Dispose of AC water line, complete	LF	60	\$ 80.00	\$ 4,800.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 4,800.00	100%
29	Connection to existing manhole, complete in place	EA	1	\$ 2,500.00	\$ 2,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 2,500.00	100%
30	3/4" Water service connection, complete in place	EA	3	\$ 1,350.00	\$ 4,050.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 4,050.00	100%
31	Cap and Abandon, complete	LS	1	\$ 6,500.00	\$ 6,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 6,500.00	100%
32	4" C-900 Sewer Pipe, complete in place	LF	490	\$ 55.00	\$ 26,950.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 26,950.00	100%
33	2" Air/vacuum release valve, complete in place	EA	1	\$ 4,500.00	\$ 4,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 4,500.00	100%
34	48" water line concrete encasement & 48" force main concrete encasement, complete in place	LS	1	\$ 3,500.00	\$ 3,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 3,500.00	100%
35	Remove & Dispose of existing sewer pipe, complete	LF	40	\$ 14.55	\$ 582.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 582.00	100%
36	to include 65 LF of 2" conduit, fittings, 2 pull boxes, trenching/backfilling per detail and pull string, complete in place	LS	1	\$ 2,325.00	\$ 2,325.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 2,325.00	100%
37	Bollards, complete in place	EA	2	\$ 125.00	\$ 250.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 250.00	100%
38	Parking bumpers, complete in place	EA	2	\$ 150.00	\$ 300.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 300.00	100%
39	Signing and striping	LS	1	\$ 2,500.00	\$ 2,500.00	-	\$ -	-	\$ -	0	\$ -	0%	\$ 2,500.00	100%

TOTAL BID LOT	459,234.00	45,797.00	68,495.00	114,292.00
NINGRT @ 7.9400%	36,463.18	3,636.28	5,438.50	9,074.78
Total with GRT	495,697.18	49,433.28	73,933.50	123,366.78

# Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check      Purchase Order

DATE: 6/16/25

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	35-535-3578	LP10037- Calle de Santiago		
		PO 10-428		\$92,717.00
		Pay Application 3		\$7,361.73

FUND CODE 35-535-3578	AMT from FUND \$100,078.73	FUND AMT Remaining	SUBTOTAL	\$92,717
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	\$7,361.73
FUND CODE	AMT from FUND	FUND AMT Remaining	TOTAL	\$100,078.73

VENDOR NAME	CES
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY BRIANA GOMEZ	DATE 6/16/25
AUTHORIZED BY <i>Soria Mayra</i>	DATE 06.16.2025

35-535-3578

PO 10-428

<b>Pay App 3</b>		Town of Mesilla - <b>Calle De Santiago Bridge Improvements</b>
<b>OWNER:</b>  TOWN OF MESILLA PO BOX 10 MESILLA, NM 88046		<b>CONTRACTOR:</b> <b>A MOUNTAIN PROFESSIONAL CONSTRUCTION LLC</b> 1177 SCOGGINS Las Cruces, NM 88005
		PROJECT NAME & PROJECT NO.
		PAGE 1 OF 2 PAGES
		<b>PERIOD OF ESTIMATE</b>
		FROM: 5/1/25 TO: 5/28/25

CONTRACT CHANGE ORDER SUMMARY				PAY ESTIMATE	
Modification and/or Change Order No.	Owner Approval Date	Amount			
		Additions	Deductions		
				1. Original Contract Value .....	\$ 495,685.70
				2. Modifications/Change Orders .....	\$ -
				3. Revised Contract (1 + 2) .....	\$ 495,685.70
				4. Work Completed* .....	\$ 207,009.00
				5. Stored Materials * (this period) .....	\$ -
				6. Subtotal (4 + 5) .....	\$ 207,009.00
				7. Retainage @ 0% .....	
				8. Less Previous Payments .....	\$ 114,292.00
				9. Subtotal (6-7-8) .....	\$ 92,717.00
				10. NMGR @ 7.9400% .....	\$ 7,361.73
<b>TOTALS</b>		\$ -	\$ -	11. Amount Due This Estimate (9+10) .....	\$ 100,078.73
<b>NET CHANGE</b>		\$ -	\$ -	* Detailed Breakdown Attached	

CONTRACT TIME			
Original (days)		<b>Project On Schedule:</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Project Start Date: _____
Current			Project Completion Date: _____
Remaining			

ORIGINAL CONTRACT PERCENT COMPLETE			
TIME:		FUNDS	
CURRENT CONTRACT PERCENT COMPLETE			
TIME:		FUNDS	

ACCEPTED BY OWNER	
Owner: <u>Town of Mesilla</u>	
By: <u>[Signature]</u>	
Date: <u>6/13/2025</u>	

**CONTRACTOR'S CERTIFICATION**

The undersigned Contractor certifies that to the best of his/her knowledge, information and belief, the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the Contractor for which previous payment estimates was issued and payments received from the Owner, and that current payment shown herein is now due.

Contractor: [Signature]

By: Bridget Spedalieri

Date: 5-29-25

**ARCHITECT OR ENGINEER'S CERTIFICATION**

The undersigned certifies that the work has been carefully inspected and to the best of his/her knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.

Amount Certified: \$100,078.73

Engineer: Amanda Lara

By: [Signature]

Date: 6/10/2025

---

**FUNDING AGENCY APPROVAL**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Calle De Santiago Bridge Improvements

ITEM NO.	DESCRIPTION	UNIT	Contract Amounts			Previous Billings			Current Billings			Billed to Date			Remaining	
			QUANTITY	UNIT PRICE	AMOUNT	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount	%	Amount	%
1	Miscellaneous removals and Disposal, Complete	CY	556	\$ 30.00	\$ 16,680.00											
2	Borrow, Complete in place	CY	350	\$ 25.00	\$ 8,750.00											
3	3" Asphalt Concrete Surface Course, Complete in place	SY	1480	\$ 18.00	\$ 26,640.00											
4	6" Crushed Aggregate Base Course, Complete in place	SY	1480	\$ 8.00	\$ 11,840.00											
5	12" Subgrade Preparation, Complete in place	SY	3480	\$ 3.00	\$ 4,440.00											
6	Prime Coat, Complete in place	SY	1480	\$ 1.50	\$ 2,220.00											
7	Tack Coat Asphalt Edges, Complete in place	LF	55	\$ 6.00	\$ 330.00											
8	Pavement Patch, include 3" of asphalt concrete, 4" base course, subgrade preparation, complete in place	SY	200	\$ 45.00	\$ 9,000.00											
9	Concrete driveway construction, subgrade preparation, base course, complete in place	SF	1940	\$ 15.00	\$ 27,600.00	474	\$ 7,110.00									
10	Colored Concrete sidewalk, subgrade preparation, to include ADA header curb, complete in place	SF	1455	\$ 12.00	\$ 17,460.00	1026	\$ 12,312.00									
11	Colored Concrete pavers, 1" of sand bed, 4" base course, subgrade preparation, complete in place	SF	1147	\$ 18.00	\$ 20,646.00											
12	Brick sidewalk, 1" of sand bed, 4" base course, subgrade preparation, complete in place	SF	855	\$ 20.00	\$ 17,100.00											
13	Brick repair, Complete in place	SF	500	\$ 22.00	\$ 6,600.00											
14	Colored Standard Curb and gutter, complete in place	LF	600	\$ 32.00	\$ 19,200.00											
15	6" Colored concrete curb, complete in place	LF	455	\$ 30.00	\$ 13,650.00	455	\$ 13,650.00									
16	2" Colored rollover curb, complete in place	LF	140	\$ 32.00	\$ 4,480.00											
17	2.5" Colored rollover curb, complete in place	LF	255	\$ 35.00	\$ 8,925.00	148	\$ 5,180.00									
18	Bridge Improvements, complete in place	LS	1	\$ 40,000.00	\$ 40,000.00	0.5	\$ 20,000.00									
19	Bridge Headwalls, complete in place	CY	24	\$ 2,000.00	\$ 48,000.00	24	\$ 48,000.00									
20	Bridge Wingwall lining, complete in place	CY	11	\$ 1,500.00	\$ 16,500.00											
21	Pedestrian Railing, complete in place	LS	1	\$ 10,000.00	\$ 10,000.00	0.25	\$ 2,500.00									
22	Vibration monitoring	LS	1	\$ 12,000.00	\$ 12,000.00											
23	Laboratory Testing Allowance	LS	1	\$ 8,000.00	\$ 8,000.00	0.13	\$ 1,040.00									
24	Traffic control including, pedestrian, plan, devices and management/maintained	LS	1	\$ 18,000.00	\$ 18,000.00	0.25	\$ 4,500.00									
25	6" C-900 Water line, complete in place	LF	415	\$ 48.00	\$ 19,920.00											
26	6" Gate Valve w/box, Complete in place	EA	1	\$ 1,995.00	\$ 1,995.00											
27	Non-pressure connections, complete in place	EA	3	\$ 3,500.00	\$ 10,500.00											
28	Remove & Dispose of AC water line, complete	LF	60	\$ 80.00	\$ 4,800.00											
29	Connection to existing manhole, complete in place	EA	1	\$ 2,500.00	\$ 2,500.00											
30	3/4" Water service connection, complete in place	EA	3	\$ 1,350.00	\$ 4,050.00											
31	Cap and Abandon, complete	LS	1	\$ 6,500.00	\$ 6,500.00											
32	4" C-900 Sewer Pipe, complete in place	LF	490	\$ 55.00	\$ 26,950.00											
33	2" Air/vacuum release valve, complete in place	EA	1	\$ 4,500.00	\$ 4,500.00											
34	48" water line concrete encasement & 48" formwork concrete encasement, complete in place	LS	1	\$ 3,500.00	\$ 3,500.00											
35	Remove & Dispose of existing sewer pipe, complete	LF	40	\$ 14.95	\$ 598.00											
36	to include 65 LF of 2" conduit, fittings, 2 pull boxes, trenching/backfilling per detail and pull string, complete in place	LS	1	\$ 2,325.00	\$ 2,325.00											
37	Bollards, complete in place	EA	2	\$ 125.00	\$ 250.00											
38	Parking bumpers, complete in place	EA	2	\$ 150.00	\$ 300.00											
39	signing and striping	LS	1	\$ 2,500.00	\$ 2,500.00											

TOTAL BID LOT	459,234.00	114,292.00	92,717.00	207,009.00
NMGRT @ 7.5400%	38,463.18	9,074.78	7,361.73	16,436.51
Total with GRT	495,697.18	123,366.78	100,078.73	223,445.51

# Town of Mesilla Purchase Requisition



Requesting: (Please select one)

Check     Purchase Order

DATE: 6/18/25

QTY	FUND CODE	DESCRIPTION	UNIT PRICE	LINE TOTAL
1	35-535-3590	22-G2846 PSB RENOVATIONS		
		FABRICATE/INSTALL CASE WORK PSB		
		KITCHEN: TOTAL OF (8) P-LAM CABINETS		<b>\$3,974.00</b>

FUND CODE <b>35-535-3590</b>	AMT from FUND <b>\$3,974.00</b>	FUND AMT Remaining	SUBTOTAL	
FUND CODE	AMT from FUND	FUND AMT Remaining	SALES TAX	
FUND CODE	AMT from FUND	FUND AMT Remaining	<b>TOTAL</b>	<b>\$3,974.00</b>

VENDOR NAME	<b>ANTIX</b>
ADDRESS	
PHONE #	
AP ONLY:	W9 COMPLETE YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>

REQUESTED BY <b>BRIANA GOMEZ</b>	DATE <b>6/18/25</b>
AUTHORIZED BY	DATE



**TOWN OF MESILLA**  
 2231 AVENIDA DE MESILLA  
 PO Box 10  
 Mesilla, NM 88046  
 (575) 524-3262

# PURCHASE ORDER

**PO Number:** 10-436      **Date:** 06/18/2025  
**Request # :** 10-456      **Vendor # :** 01-3973

**ISSUED TO:**

ANTIX INC.  
 717 W. ORGAN AVE.  
 LAS CRUCES, NM 88005

**SHIP TO:**

TOWN OF MESILLA - TOWN HALL  
 2231 AVENIDA DE MESILLA  
 MESILLA, NEW MEXICO 88046

ITEM	UNITS	DESCRIPTION	G/L ACCOUNT	PROJECT	PRICE	AMOUNT
1	0.00	FAB/INSTALL CABINETS 22-G2846 PSB RENOVATIONS FABRICATE AND INSTALL CASEWORK FOR FOLLOWING ROOMS/AREA: KITCHEN: TOTAL (8) P-LAM WALL CABINETS, STANDARD DIM 12" DEEP X 30" TALL WITH ADJUSTABLE SHELVES, FIX EXISTING DRAWER AND INSTALL NEW DRAWER FRONT ANTIX TO REMOVE EXISTING SHELVES ON STANDARD AND BRACKETS NEW CANINETS TO MATCH PLEASE SEE QUOTE FOR FURTHER DETAILS IF NEEDED.	35 -535-3590		0.00	3,974.00

**Approvals:**

\* Taxable Item

<b>SUBTOTAL</b>	
<b>TOTAL TAX</b>	3,974.00
	0.00
<b>TOTAL</b>	3,974.00

**Clerk Treasure:**

*Deora Maya*      **Date:** 06.18.2025

- Original invoice plus one copy must be sent to:  
Town of Mesilla, Accounts Payable Dept, 2231 Avenida De Mesilla, PO Box 10, Mesilla, NM 88046.
- Purchase Order numbers must appear on all packages, packing slips and invoices.

# Quote

PSB Renovations  
226-2846



# antix

INC

E-mail: [molivas@antix-inc.com](mailto:molivas@antix-inc.com)  
[www.antix-inc.com](http://www.antix-inc.com)

717 W. Organ # Las Cruces # NM 88005  
(575) 526-2398 # Fax (575) 523-2906  
# Lic. No. 058963 - GB 98 FEIN# 85-0433991  
Public Works Registration # 002299720110816  
AWI member # 14727 **June 10, 2025**

To: Greg Whited  
Ref: Mesilla Fire Station kitchen cabinets  
No. of pages, 1

35-535-3590

## FABRICATE AND INSTALL CASEWORK FOR THE FOLLOWING ROOMS / AREAS:

- Kitchen: Total of (8) P-Lam wall cabinets, standard dimensions 12" deep x 30" tall with adjustable shelves, fix existing drawer and install new drawer front

**\$ 3,974.00** Plus tax if applicable

Antix to remove existing shelves on standards and brackets  
New cabinets to match existing cabinet color

- Standard Grass 120 Deg. Hinge
- Cabinet locks not included
- All casework with plastic laminate selections from Manufacturers' standard line of solids, patterns & woodgrains
- Quote good for 90 days from date above

**BOARD ACTION FORM  
AGENDA DATE**

**PZHAC: 6/16/2025**

**BOT:**

**DAC ACCOUNT – R0401232  
BLDG CODE – SIGN  
EVALUATION COST- \$N/A  
FEE - \$40**

**ITEM: PZHAC CASE #062007 – 1730 Tierra de Mesilla, suite #6, submitted by Assembly Create LLC. Requesting approval for a sign permit. ZONE: Commercial (C).**

**BACKGROUND AND ANALYSIS:**

Mrs. Liz Wright, owner of the recently approved business, Assembly Create LLC, is looking to put a sign on the exterior door of the building. The door is approximately 36” x 80” = 20 sq ft. The sign will be painted on to the door.

**IMPACT:**

- The PZHAC has jurisdiction to recommend approval of the applicant’s request for final approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

**ALTERNATIVES:**

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Deny the application.

**DEPARTMENT COMMENTS:**

- **MTC 18.65.140 (A)(2) – Wall Sign**  
*...shall in no case exceed 10 percent of any wall area including apertures or 25 square feet, whichever is less.*

**SUPPORTING INFORMATION:**

- Application
- Street view of place/elevations
- Site plan
- Picture of sign to be painted.

**DETERMINATION NOTES**

-Approved 4-0, no conditions

# SIGN PERMIT #062007

**Application Date:**

06/05/2025

**Name of Business**

Assembly Create LLC

**Name of Applicant**

Liz Wright

**Address of Business**

1730 Tierra de Mesilla  
Suite 6  
Las Cruces, NM  
88005  
US

**Address of Applicant**

4172 La Purisima Dr  
Las Cruces, NM  
88011  
US

**Phone**

+16143144593

**Alternate Telephone Number**

+16143144593

**File Upload**

[ExternalBigSign Assembly.pdf](#)

# Outdoor Signage

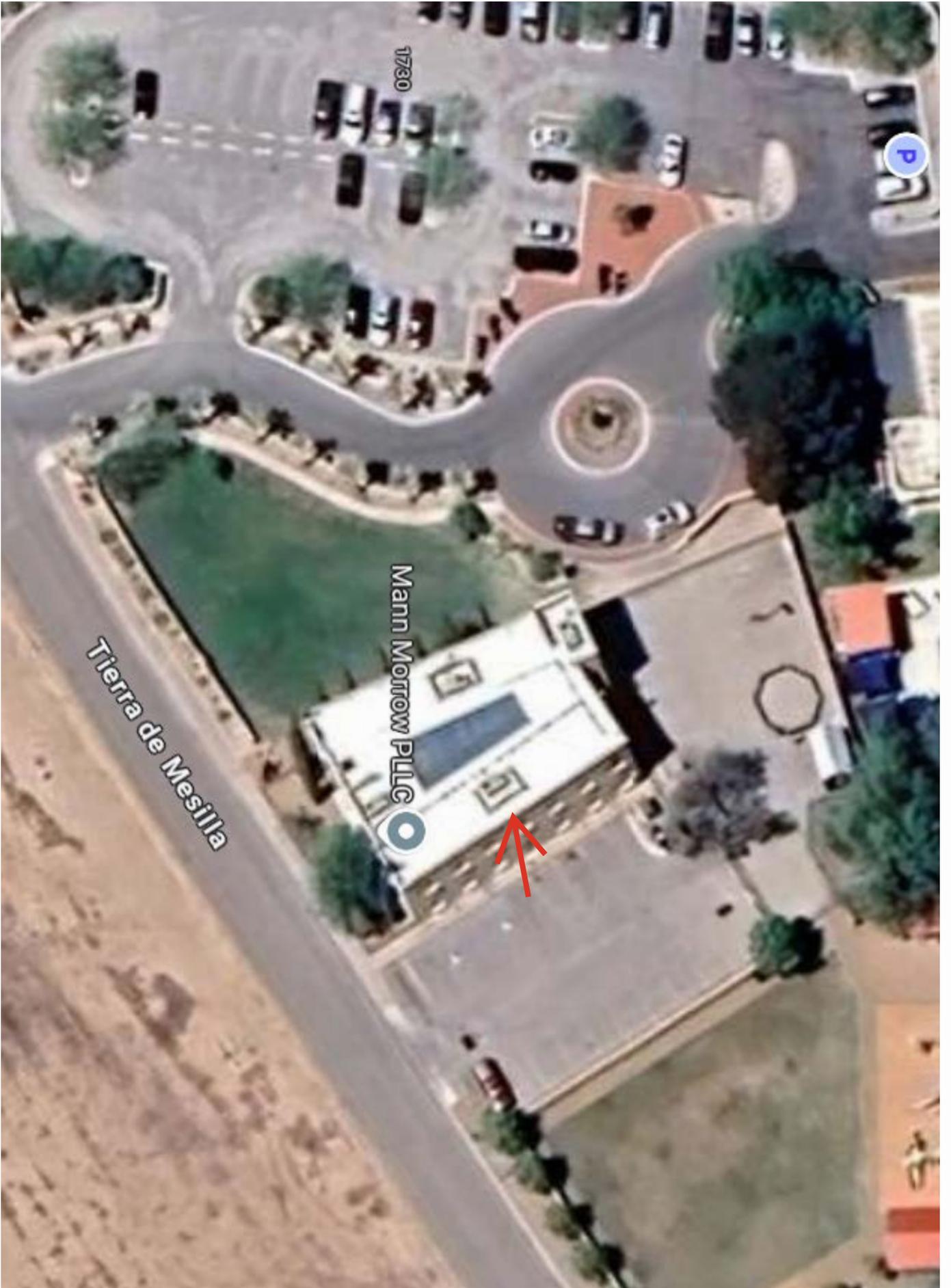


**Size: Door**

**Materials:  
Handpainted  
+ black vinyl lettering**

**Liz Wright  
1730 Tierra de Mesilla**





17330

Mann Morrow PLLC

Tierra de Mesilla

P

**BOARD ACTION FORM  
AGENDA DATE**

**PZHAC: 6/16/2025**

**BOT:**

**DAC ACCOUNT – R0401232  
BLDG CODE – SIGN  
EVALUATION COST- \$N/A  
FEE - \$8**

**ITEM: PZHAC CASE #062008 – 1730 Tierra de Mesilla, suite #6, submitted by Assembly Create LLC. Requesting approval for a sign permit. ZONE: Commercial (C).**

**BACKGROUND AND ANALYSIS:**

Mrs. Liz Wright, owner of the recently approved business, Assembly Create LLC, is looking to put a sign on the directory sign for the building. The sign will display the name of the business.

**IMPACT:**

- The PZHAC has jurisdiction to recommend approval of the applicant's request for final approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

**ALTERNATIVES:**

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Deny the application.

**DEPARTMENT COMMENTS:**

- **MTC 18.65.165(A-E)**

*A. A directory sign may be permitted for a building or development where there is more than one business or tenant. A directory sign may be a wall sign, projecting sign, or freestanding sign, provided the sign complies with all requirements for the type of sign.*

*B. A directory sign shall be limited to 15 square feet in area for signs located in the Historical Commercial (H-C zone) zone and 25 square feet in area for signs located in the Commercial (C) zone.*

*C. All directory signs shall be located on the premises where the businesses are located.*

*D. A directory sign may list all businesses or only the building or development name.*

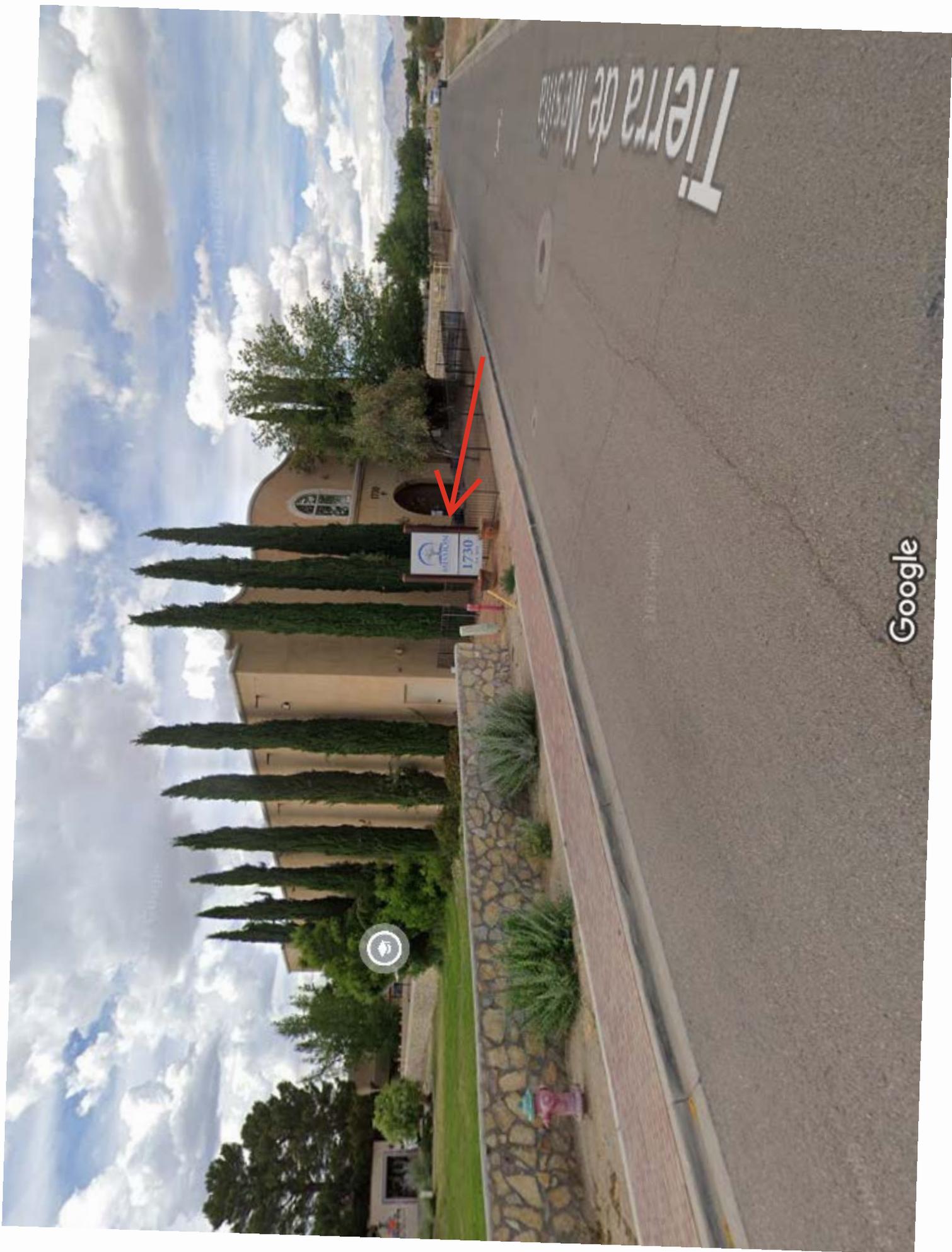
*E. Each business may have one individual sign in addition to the identification on the directory sign, in accordance with the sign regulations and all other laws and ordinances.*

**SUPPORTING INFORMATION:**

- Application
- Street view of place/elevations
- Site plan
- Design of sign

**DETERMINATION NOTES**

-Approved 4-0, no conditions



Google

Tierra de Mesquite

1730  
TERRAZAS



# Outdoor Signage



**Size: 44.75" x 12"**

**Material: Printed Aluminum**

**Liz Wright  
1730 Tierra de Mesilla**

# SIGN PERMIT

**Application Date:**

06/05/2025

**Name of Business**

Assembly Create LLC

**Name of Applicant**

Liz Wright

**Address of Business**

1730 Tierra de Mesilla  
Suite 6  
Las Cruces, NM  
88005  
US

**Address of Applicant**

4172 La Purisima Dr  
Las Cruces, NM  
88011  
US

**Phone**

+16143144593

**Alternate Telephone Number**

+16143144593

**File Upload**

[ExternalBigSign Assembly.pdf](#)

Sent from [Town of Mesilla](#)

**BOARD ACTION FORM  
AGENDA DATE**

**PZHAC: 6/16/2025**

**BOT:**

**DAC ACCOUNT #R0401232  
BLDG CODE – SIGN  
EVALUATION COST- \$30.00  
FEE - \$3.36**

**ITEM: PERMIT CASE #062015** –1730 Tierra de Mesilla, Suite #3A, Submitted by Kristin Knight. Seeking permission to put up a sign for her Mental Health business. ZONE: Commercial (C).

**BACKGROUND AND ANALYSIS:**

Ms. Knight is seeking permission to put up a sign for her business on the exterior directory for 1730 Tierra de Mesilla. She will be putting up the sign herself.

**IMPACT:**

- The PZHAC has jurisdiction to recommend approval of the applicant’s request for approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

**ALTERNATIVES:**

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Deny the application.

**DEPARTMENT COMMENTS:**

- Staff recommends approval

**SUPPORTING INFORMATION:**

- Application
- Sign Image
- Business location
- Directory for sign

**DETERMINATION NOTES**

-Approved 4-0, no conditions



Town of Mesilla  
 P.O. BOX 10  
 MESILLA, NM 88046  
 PHONE: (575) 524-3262 FAX (575) 541-6327

## SIGN PERMIT

Application Date: 2/7/25 6/10/25

The Zen Monkey Mental Health  
 Name of Business Company

Kristin Knight  
 Name of Applicant

1730 Tierra de Mesilla, Suite 3A  
 Address of Business

1165 W. Boutz Rd  
 Address of Applicant

Las Cruces, NM 88005  
 City State Zip

Las Cruces NM 88005  
 City State Zip

(575) 649-5131  
 Telephone Number

(575) 201-3041  
 Alternate Telephone Number

Location and description of Sign:  
 (include dimensions, lettering, shape, material, texture, colors, and/or finish to be used. Attach a drawing of the location of the sign, including any other advertising structures on the building or lot.)

Metal sign, 11H x22L, Third row on the board to the left. See attached image.

### For Office Use Only

Administrative Approval: \_\_\_\_\_  
 PZHAC Approval: \_\_\_\_\_  
 BOT Approval: \_\_\_\_\_

Permit Fee: \$3.36  
 Date of Payment: \_\_\_\_\_  
 CASE NUMBER: #062015



# The Zen Monkey

Mental Health Company

*Mindful Monkey. Peaceful Mind.*

Parcel: HACIENDA INVESTMENTS LLC

ACCOUNT NUMBER: R0401232

PARCEL NUMBER: 4006137242263

OWNER NAME: HACIENDA INVESTMENTS  
LLC

MAILING ADDRESS: 5140 NIZHONI TRAIL

CITY: LAS CRUCES

STATE: NM

ZIP: 88005

SUBDIVISION NAME: MERCADO DE LA

MESILLA PHASE 3B (BK 20 PG 163-164 -

0231702)

SITE ADDRESS: 1730 TIERRA DE MESILLA

ACREAGE: 0.37

SQUARE FOOTAGE: 16,117.00

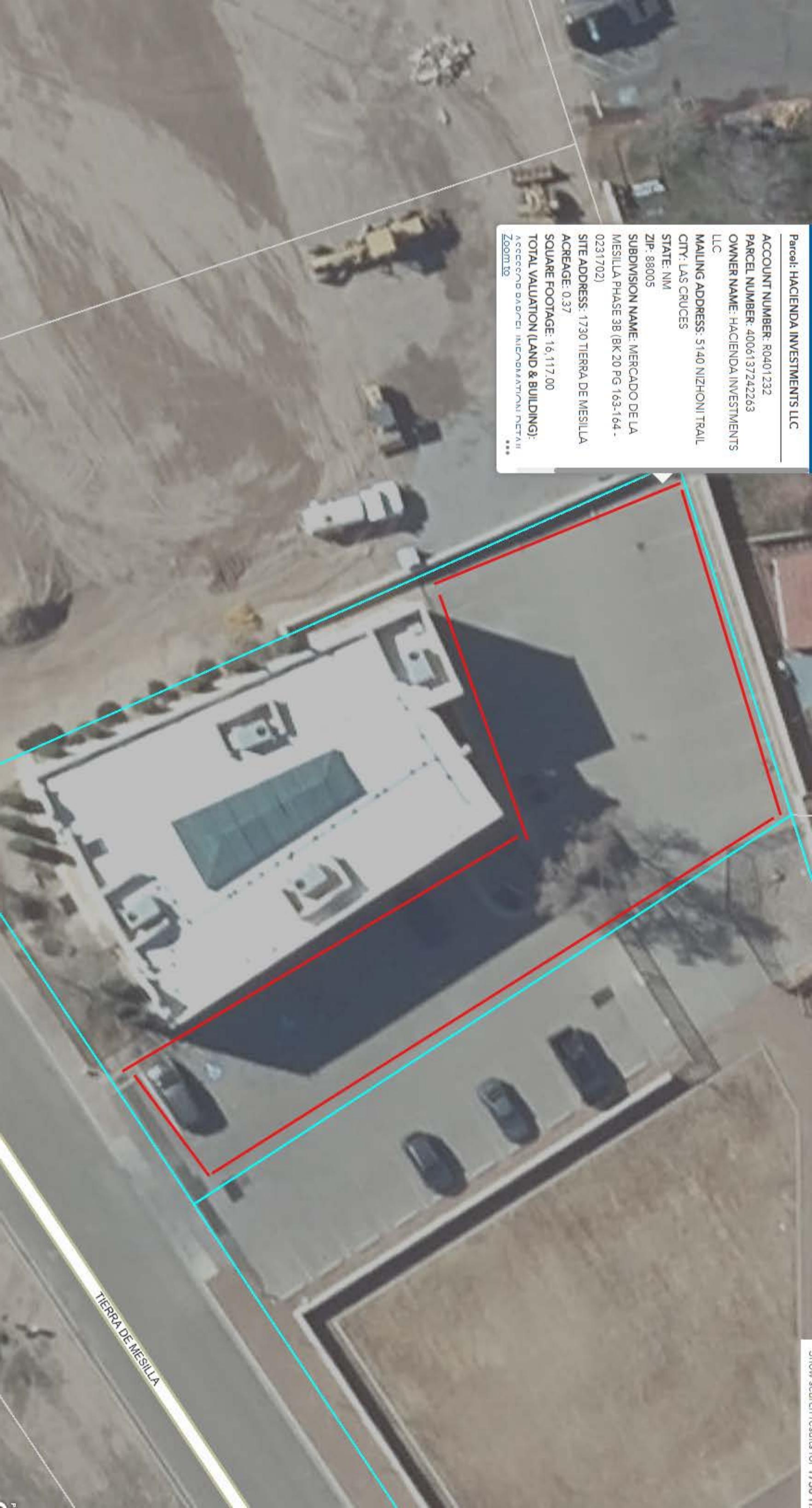
TOTAL VALUATION (LAND & BUILDING):

\*\*\*\*\*

Zoom to

\*\*\*

TIERRA DE MESILLA



MANN MORROW

LITIGATION FIRM

1730



**BOARD ACTION FORM  
AGENDA DATE**

**PZHAC: 6/16/2025**

**BOT: 06/23/25**

**DAC ACCOUNT – R0400228  
BLDG CODE – AC  
EVALUATION COST- \$10,000  
FEE - \$175.50**

**ITEM: PZHAC CASE #062009 – 2320 Calle de Santiago, submitted by Eric Liefeld & Trina Witter. Requesting approval to construct a fence around the north, south and east property line.  
ZONE: Historical Residential (HR).**

**BACKGROUND AND ANALYSIS:**

Mr. Liefeld & Mrs. Witter have submitted a property Plat of Survey to reflect the properties legal boundaries. On this survey, they have outlined where the walls will be constructed. The north property line will be a 6-foot coyote fence. On the south property line, there will be a combination of a coyote and adobe fence. This boundary line will also have 2 entry driveway gates and a man gate. The boundary line is offset from the street 10+ feet meeting MTC 18.60.340(G). The east property line, it being the front of the property will be constructed of adobe with a wooden gate & trellis type of design. This property is on the corner of Calle de Santiago & Picacho. MTC 18.60.340(D), sight-triangle of 30' has been met by the design submitted on the elevations document.

Between their property and the property adjacent to the north is a storage type building/structure. This building/structure was in place when the property was bought and subdivided by the previous owner. Mr. Liefeld & Mrs. Witter were not able to acquire a right-of-entry from the neighbor from the north. MTC 18.35.060(D)(1-5)

*D. Yards. For all new buildings, front, side and rear yard must be at least seven feet from the property line.*

- 1. Any repairs of structures or fences that have been legally built on a property line prior to June 8, 2020, will not require a right-of-entry form;*
- 2. New construction of fences shall require a right-of-entry agreement signed by all property owners of all applicable properties for construction and maintenance that is recorded in Dona Ana County records and filed with the town clerk; and*
- 3. This document must be acquired prior applying to planning, zoning, and historical appropriateness commission approval; and*
- 4. This document shall be permanent and remain with all properties regardless of ownership; and*
- 5. If a mutual agreement cannot be acquired, the applicant shall meet the required setback of seven feet.*

The northern boundary line goes through a pre-existing building that appears to be a storage. According to MTC 18.60.220:

*Every required front, side and rear yard shall be open and unobstructed from the ground to the sky; provided, that when the common boundary line separating two or more contiguous lots is covered or partially covered by a building or when two or more such lots are used as a single building site, such lots are a single building site and the yard spaces as required by this title shall then not apply to the common boundary line.*

**IMPACT:**

- The PZHAC has jurisdiction to recommend approval of the applicant's request for final approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

**ALTERNATIVES:**

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Deny the application.

**DEPARTMENT COMMENTS:**

- MTC 18.60.340(D) – 30' sight triangle observed according to elevations
- MTC 18.60.340(E) – materials and design allowed in the HR zone
- MTC 18.60.340(G) – 10' from street is adhered to and 90' plain view on both sides of driveway gate.
- MTC 18.60.220 – Pre-existing building on property line waives required setbacks of 7 feet set by this title.

**SUPPORTING INFORMATION:**

- Application
- Elevations
- Plat of Survey
- Adobe fence construction cross section
- Informational sheet
- Proof of Ownership
- Identification
- Street views

**DETERMINATION NOTES**

- Approved 4-0, without conditions

**TOWN OF MESILLA**  
**APPLICATION FOR ZONING PERMIT**

Permit Fee \$ 150  
 Review Fee \$ 25.50  
 Total Fee \$ 175.50

2231 Avenida de Mesilla, P.O. Box 10, Mesilla, NM 88046 (575) 524-3262 ext. 104

CASE NO. 062009 ZONE: HR CODE: AC APPLICATION DATE: 6/9/2025

Eric Liefeld + Trina Witter  
 Name of Property Owner

4006137154481  
 Dona Ana County Account/Parcel #

P.O. Box 1780 Mesilla NM 88046  
 Property Owner's Mailing Address City State Zip Code

eric.liefeld@gmail.com 575-571-5642  
 Property Owner's E-mail Address Property Owner's Telephone Number

Willie Martinez - Roadrunner Construction Co.  
 Contractor's Name & Address (if none, indicate Self) NM: 01167253006

575-650-3436 Federal: 85-0330022 #22409  
 Contractor's Telephone Number Contractor's Tax ID Number Contractor's License Number

Address of Proposed Work: 2320 Calle de Santiago

Description of Proposed Work: - Demolish existing degraded cinder block yard wall  
- Build adobe wall + coyote fence as per attached  
- Install two driveway gates + five pedestrian gates  
- See attached additional information

THIS APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING **Plan-sheets are to be no larger than 11 x 17 inches or shall be submitted electronically.**

- Site plan with legal description to show existing structures, adjoining streets, driveway(s), improvements & setbacks. Verification shall show that the lot was **LEGALLY** subdivided through the Town of Mesilla or that the lot has been in existence prior to February 1972.
- NA Window replacement, need data sheet of new windows.
- NA Foundation plan, new construction plans in full size drawings. *(See footing plan in wall cross-section)*
- NA Floor plan showing rooms, their uses, and dimensions.
- Cross section of walls.
- NA Roof and floor framing plan.
- Proof of property ownership/tenant lease. (Warranty Deed/Property Tax Receipt)
- NA Drainage plan (commercial).
- Details of architectural style and color scheme (checklist included for Historical zones) – diagrams and elevations.
- Valid government issues identification (Driver License/ID/Passport)

10,000  
~~\$ 5,000~~  
 Estimated Cost

[Signature]  
 Signature of Applicant

6/10/25 [Signature]  
~~10/15/2023~~  
 Date

**Application Fee is due at time of submittal.** Apart from administrative approvals, all permit requests must undergo a review process from staff, PZHAC and/or BOT before issuance of a zoning permit. **All zoning permits expire after one year from date issued.**  
**\*\*\* ALL permits must be displayed in clear view until final inspection \*\*\***

**FOR OFFICIAL USE ONLY**

PZHAC APPROVAL REQUIRED: YES  NO

BOT APPROVAL REQUIRED: YES  NO

- PZHAC  Administrative Approval  
 Approved Date: \_\_\_\_\_  
 Disapproved Date: \_\_\_\_\_  
 Approved with conditions

- BOT  Approved Date: \_\_\_\_\_  
 Disapproved Date: \_\_\_\_\_  
 Approved with Conditions

CID PERMIT/INSPECTION REQUIRED: YES  NO

PERMISSION ISSUED / DENIED BY: \_\_\_\_\_

ISSUE DATE: \_\_\_\_\_

## Additional information

### Need for the wall/fence

The proposed wall/fence is needed to address the following issues:

1. **Privacy and security.** We currently cannot secure our property. Ours is a busy corner and we have had multiple trespassing incidents. People regularly shortcut through our yard. Town of Mesilla contractors have taken our water and relieved themselves on our property. Cars have been broken into in our driveway in the past. The neighbor has reported thefts from the shared storage building.
2. **Impacts to the neighbor.** We do not want to trespass on the neighbor's property but there is currently no way of knowing where the property line is located. Also, headlights from cars in our driveway shine directly into the neighbor's bedroom window. A fence will help with these issues.
3. **Impacts from new town parking and events.** The newly constructed town parking area has dramatically changed the feel of our property. Besides increasing the number of cars parking across the street, many of those cars now back into the new parking spaces, shining headlights directly on the front of our house. People have also parked on our property for town events. The wall will help with these issues.

### Full code compliance

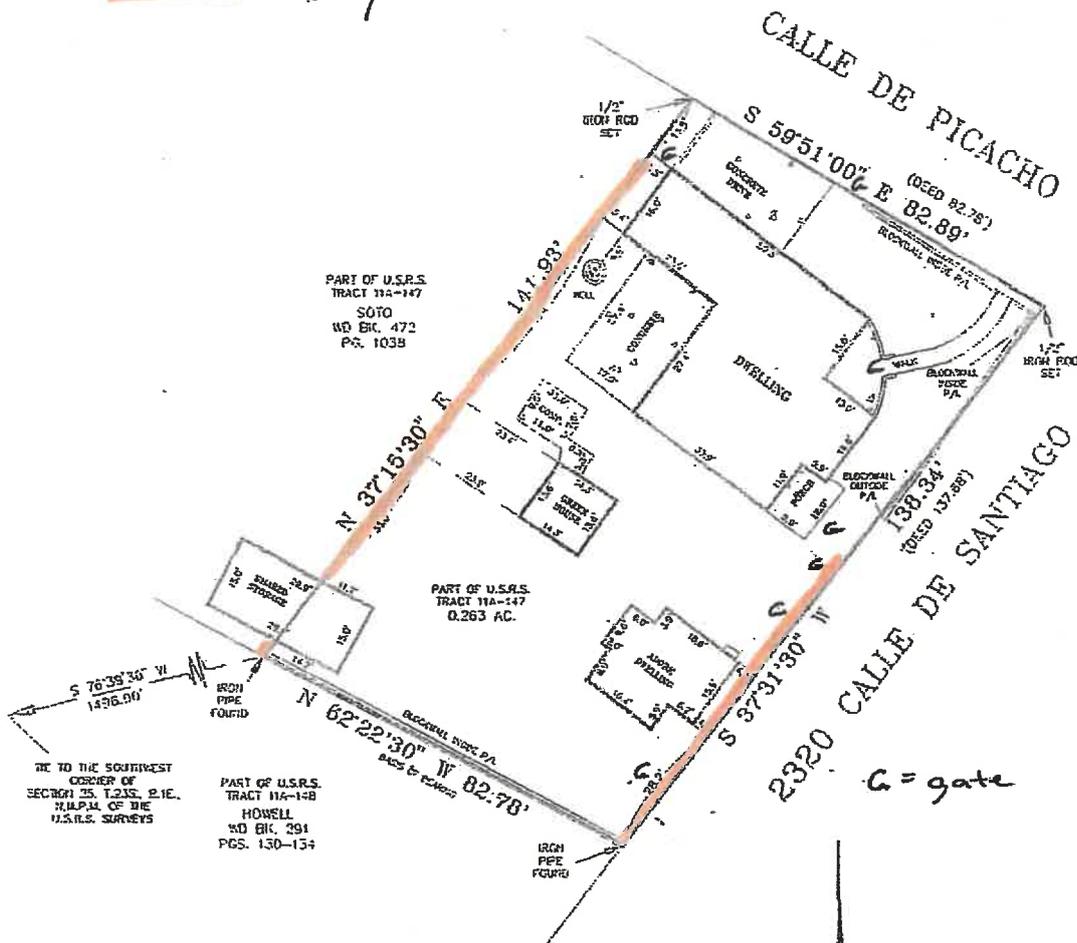
The proposed wall/fence will be constructed ENTIRELY on our property, respecting officially accepted property lines as determined by professional survey (lot has been surveyed as per the attached plat and the corners marked).

The plan is fully compliant with the Mesilla Town Code (MTC) as follows:

1. Sight triangle visibility will be maintained at the corner of Calle de Santiago and Calle de Picacho (MTC section 18.60.340.D). See elevations for details.
2. Wall/fence will be built only from allowed materials to include adobe and wood coyote fencing (MTC section 18.60.340.E). See elevations for details.
3. Driveway visibility will be maintained on the southern property line since the wall/fence will be located further than 10 feet from the roadbed (as required by MTC section 18.60.340.G). See elevations for details.
4. A pre-existing shared storage building straddles the northern property line. As such, the "yard spaces as required by this title shall then not apply to the common boundary line" (MTC General Provisions, MTC section 18.60.220). See attached plat by Moy Surveying, Inc. for details.

- Adobe wall

- Coyote fence

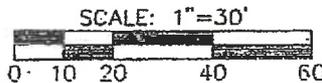


NOTES:

FLOOD ZONE "X": AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAIN, IN MAP NO. 35013C0653 E, EFFECTIVE SEPTEMBER 27, 1991.

THIS SURVEY MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR VERIFICATION.

INFORMATION IN THE PREPARATION OF THIS PLAT DERIVES FROM WARRANTY DEED FILED OCTOBER 23, 2003, IN CLERKS BOOK 472, PAGE 1037, DONA ANA COUNTY RECORDS.



INDEXING INFORMATION FOR COUNTY CLERK

PROPERTY OWNER:  
SOTO

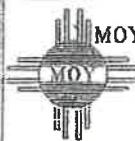
PROPERTY LOCATION:  
TOWN OF MESILLA



PLAT OF SURVEY  
 SHOWING THE LOCATION OF IMPROVEMENTS  
 ON A 0.263 ACRE TRACT  
 IN SECTION 25, T.23S., R.1E., N.M.P.M.  
 OF THE U.S.R.S. SURVEYS BEING PART OF  
 U.S.R.S. TRACT 11A-147  
 TOWN OF MESILLA  
 DONA ANA COUNTY, NEW MEXICO

I, JORGE MOY, A NEW MEXICO PROFESSIONAL SURVEYOR CERTIFY THAT I CONDUCTED THIS SURVEY, THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THIS SURVEY AND PLAT MEET THE MINIMUM STANDARDS FOR SURVEYING IN NEW MEXICO.

*Jorge Moy*  
 JORGE MOY N.M.P.S. 5939



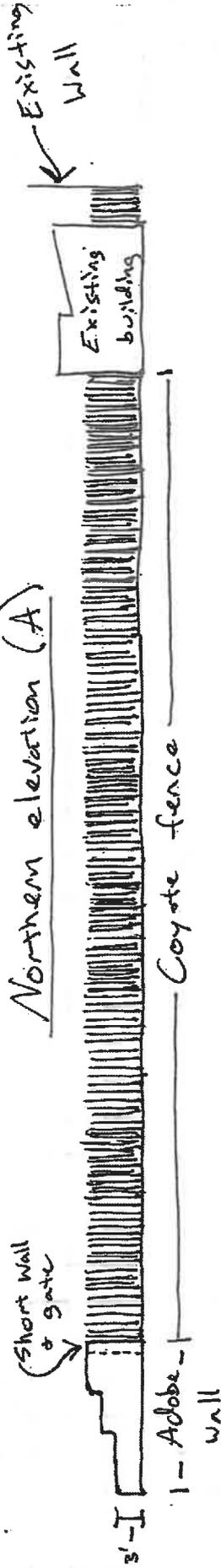
MOY SURVEYING INC.  
 414 N. DOWNTOWN MALL  
 LAS CRUCES, NEW MEXICO  
 88001

PHONE: (505) 525-9603  
 FAX: (505) 524-3238

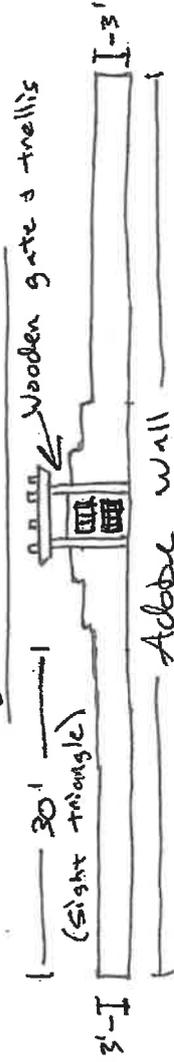
JOB NO. 07-0037  
 DRAWN BY ROBERT E. LAWS  
 FIELD BY PETE & JERRY  
 DATE 1/10/07 SCALE: 1"=30'

# Elevations

## Northern elevation (A)



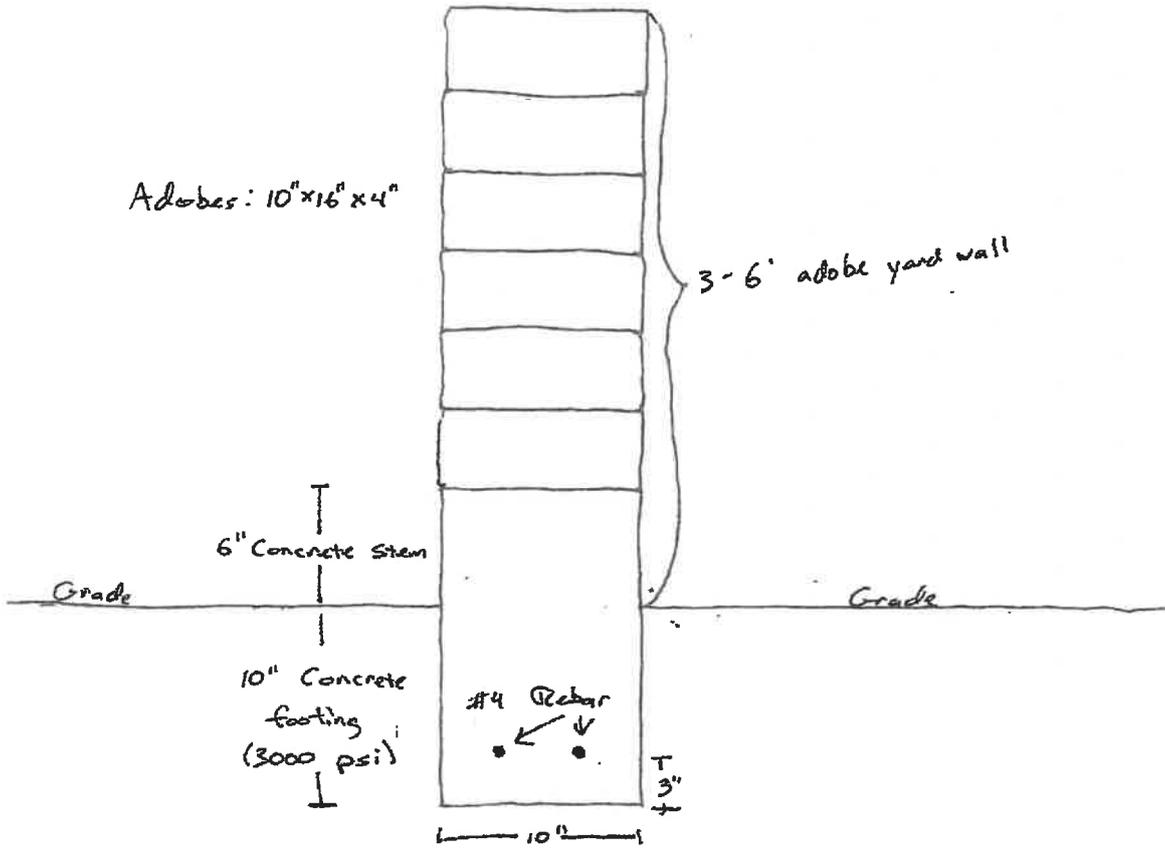
## Eastern elevation (B)



## Southern elevation (C)



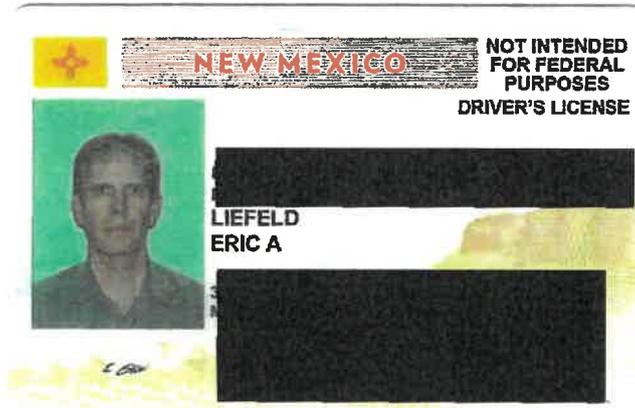
# Wall cross section



Scale 1/4" = 2"

2320 Calle de Santiago





Signature:   
[LORENZO ASTORGA \(Jun 9, 2025 17:19 MDT\)](#)  
Email: [lorenzoa@mesillanm.gov](mailto:lorenzoa@mesillanm.gov)

Signature:   
Email: [gwhited@mesillanm.gov](mailto:gwhited@mesillanm.gov)

Signature:   
[THOMAS MAESE \(Jun 9, 2025 18:23 MDT\)](#)  
Email: [thomas.maese@rld.nm.gov](mailto:thomas.maese@rld.nm.gov)

Signature:   
Email: [MESILLACED@MESILLANM.GOV](mailto:MESILLACED@MESILLANM.GOV)

**BOARD ACTION FORM  
AGENDA DATE**

**PZHAC: 6/16/2025**

**BOT:**

**DAC ACCOUNT – R0401209  
BLDG CODE – ACC  
EVALUATION COST- \$3,100  
FEE - \$106.50**

**ITEM: PZHAC CASE #062010 – 2488 Calle de Guadalupe, submitted by Old Town Investments (Madelyn's). Requesting approval to build a wall/fence on commercial property. ZONE: Historical Commercial (HC).**

**BACKGROUND AND ANALYSIS:**

Old Town Investments, commonly known as Madelyn's, has submitted a zoning permit to build a 3' wall approximately 19-feet long. The wall will be the same design and color as the existing perimeter wall. The purpose for this wall is to be able serve alcohol on the outside patio as mandated by NM Regulations & Licensing Department (RLD), Alcohol Division.

Ethereum Investments will be performing the work. They have applied and approved for a Mesilla business license. Do have a NM contractor's license to perform the work.

**IMPACT:**

- The PZHAC has jurisdiction to recommend approval of the applicant's request for final approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

**ALTERNATIVES:**

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Deny the application.

**DEPARTMENT COMMENTS:**

- Recommend approval

**SUPPORTING INFORMATION:**

- Application
- Property Plat of Survey (site plan)
- Contract Agreement
- Street View pics

**DETERMINATION NOTES**

- Approved 4-0, no conditions



# TOWN OF MESILLA

2231 AVENIDA DE MESILLA  
 MESILLA, NM, 88046  
 PO BOX 10  
 575-524-3262

comdev@mesillanm.gov

## 2025 ZONING PERMIT APPLICATION

CASE # 062010

Review Fee \$	<u>16.50</u>
Permit Fee \$	<u>90</u>
Penalty Fee \$	_____
Extension Fee \$	_____
<b>TOTAL FEE \$</b>	<b><u>106.50</u></b>

Name of property owner <u>OLD TOWN INVESTMENTS</u>		Worksite Address <u>2488 Calle de Guadalupe</u>	
ID/DL# [REDACTED]		Mailing Address <u>SAME 4038 CHAVEZ RD LC NM 88007</u>	
Phone <u>817.718.0248</u>		Email <u>Ethereumnm@gmail.com</u>	Dona Ana County Account # <u>R0401209</u>
Contractor <u>Ethereum Investments</u>	Mailing Address <u>218 N. CAMPO LC/NM 88001</u>	Phone <u>575 520.6223</u>	License # <u>416172</u>
Description of Proposed work <u>CMU Carport Wall</u>			
Evaluation Cost \$ <u>3100</u>		Signature of Applicant <u>[Signature]</u>	
		Date <u>6-9-25</u>	

ALONG WITH this application, proof of property ownership and signed contractor/client contract agreement is required to include evaluation cost of project. Plans are to be no larger than 11"x 17" or submitted electronically.

1. \_\_\_ Site Plan with legal description to show existing structures, adjoining streets, driveway(s), improvements & setbacks. Verification shall show that the lot was LEGALLY subdivided through the Town of Mesilla or that the lot has been in existence prior to March 14, 1972.
2. \_\_\_ Foundation Plan, new construction in full size drawings
3. \_\_\_ Floor Plan, showing rooms, their uses and with dimensions
4. \_\_\_ Cross section walls
5. \_\_\_ Roof Plan and floor framing plan
6. \_\_\_ Electrical Plans
7. \_\_\_ Plumbing Plans
8. \_\_\_ Elevations, details of architectural style and color scheme (checklist for Historic Zones)
9. \_\_\_ Drainage plans (commercial)

Application is not considered to be submitted until ALL required documentation is submitted and application fee(s) are paid. Aside from administrative approvals, application process must undergo review by staff, PZHAC and/or BOT before permit is issued. All required NM CID permits must first obtain a zoning permit if work is to be performed in Mesilla. **\*\*\*ALL permits must be displayed in clear view until final inspection\*\*\***

### OFFICE USE ONLY

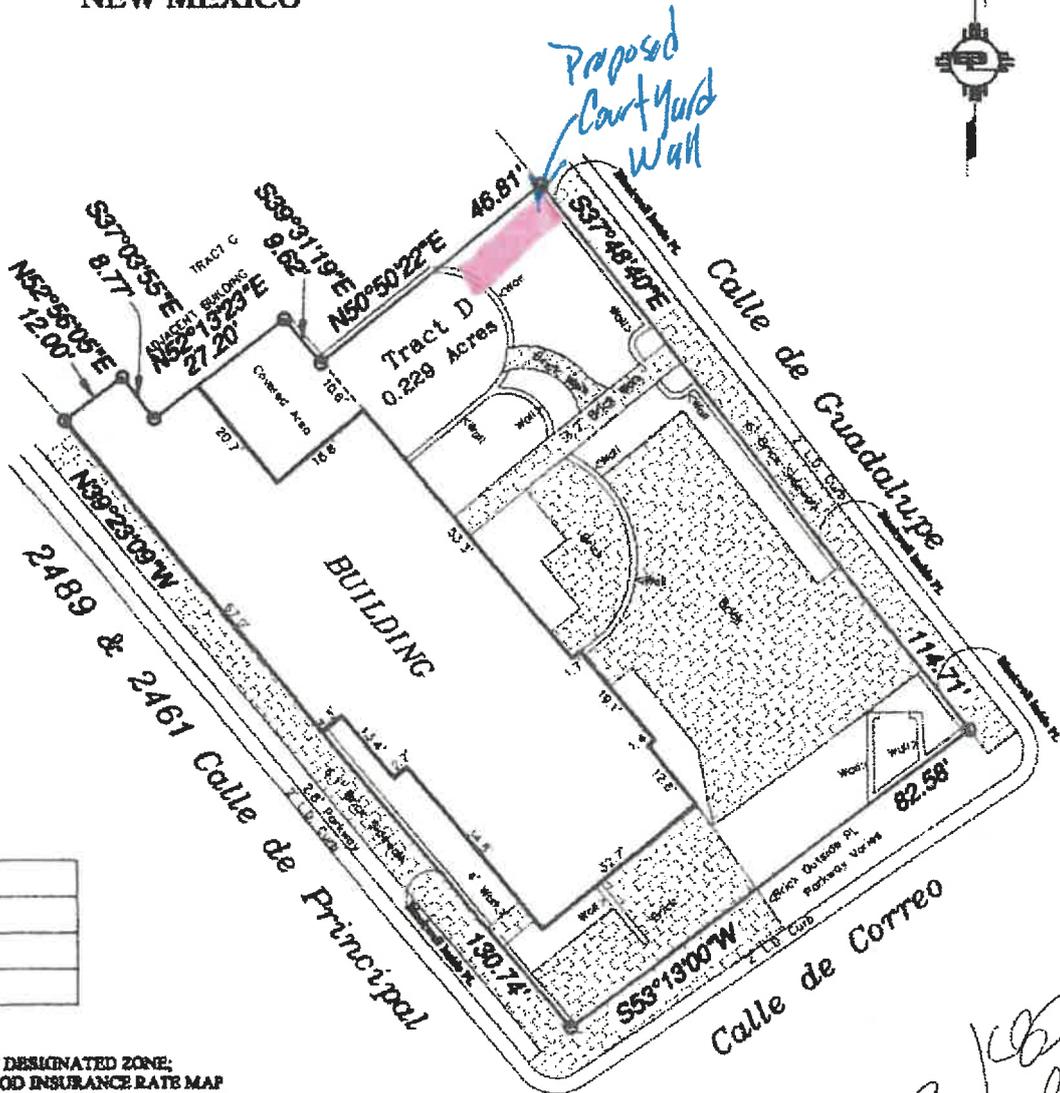
Reviewed by: Public Works	_____	Date	_____
Fire Department	_____	Date	_____
NM CID	_____	Date	_____
Community Development	_____	Date	_____

Date(s) Approved: \_\_\_\_\_ Administrative \_\_\_\_\_ PZHAC \_\_\_\_\_ BOT \_\_\_\_\_ CID

COMMENT(S) \_\_\_\_\_

# PLAT OF SURVEY

TRACT D  
 FOUNTAIN ACRES SUBDIVISION  
 PLAT FILED DECEMBER 28, 2017, IN  
 PLAT BOOK 24, PAGE 283, IN THE  
 DONA ANA COUNTY RECORDS  
 TOWN OF MESILLA  
 DONA ANA COUNTY  
 NEW MEXICO



DRAWN BY:	S.P.
FIELD BY:	E.R., C.S.
JOB NO.:	24-05-358
DATE:	May 20, 2024

PROPERTY IS IN AN "X" DESIGNATED ZONE,  
 AS SHOWN ON THE FLOOD INSURANCE RATE MAP  
 COMMUNITY PANEL NO. 35035C1093 G  
 EFFECTIVE JULY 6, 2016

NOTES:  
 THE BASIS OF BEARING IS THE WEST BOUNDARY.  
 ALL EASEMENTS SHOWN HEREON ARE PER THE FILED INSTRUMENT/PLAT  
 AS NOTED HEREON  
 BEARINGS AND DISTANCES MATCH THAT OF RECORD, UNLESS  
 OTHERWISE NOTED.

Received *[Signature]*  
 Date 6-24-24

**SURVEYOR'S CERTIFICATE**

THIS IS TO CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY MADE BY ME OR UNDER MY DIRECTION AND THAT IT IS TRUE AND CORRECT, MEETING THE MINIMUM REQUIREMENTS OF THE STANDARDS FOR LAND SURVEYS IN NEW MEXICO AS ADOPTED BY THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, TO THE BEST OF MY KNOWLEDGE AND BELIEF.



May 20, 2024  
 DATE OF SURVEY  
*[Signature]*  
 TED G. SCANLON - PS NO. 9433  
 2990 N. MAIN STREET, STE. 3C, LAS CRUCES, NEW MEXICO 88001

THIS IS A BOUNDARY SURVEY PLAT OF AN EXISTING TRACT OR TRACTS OF LAND. IT IS NOT A LAND DIVISION OR SUBDIVISION AS DEFINED IN THE NEW MEXICO SUBDIVISION ACT.

**BORDERLAND**  
**ENGINEERS AND SURVEYORS LLC.**  
 2990 N. MAIN STREET, STE. 3C  
 LAS CRUCES, NEW MEXICO 88001  
 Phone: (575) 522-1443  
 Fax: (575) 522-9938

# CONTRACT AGREEMENT

June 7, 2025

Ethereum Investments LLC

218 North Campo

Las Cruces, NM 88001

Phone: 575.520.6263

NM GB98 #416172

Old Town Investments

2488 Calle de Guadalupe

Mesilla NM 88005

Phone: 575.319.4549

State ID #7679360

Ethereum Investments & Old Town Investments agree to build a courtyard wall to match existing courtyard wall. Wall will be built using 8" CMU and is approximately 19 feet long and 3 feet tall with a 12 inch x 12 inch footing with 2-#4 rebars and 1 vertical rebar #4 every 4 foot. Owner to choose from color sample for stucco color/stain provided by contractor.

Both parties agree to a price of \$3100.00. \$1550.00 due when block is laid and balance upon completion.

Signed:  \_\_\_\_\_

Owner: Michael Coronado, EI LLC

Signed:  \_\_\_\_\_

Owner: Kent Davies, Old Town Investments

 . 06/08/25 11:34 AM

Signed: \_\_\_\_\_

Owner: Irma Chavez, Old Town Investments



**Signature:**   
Lorenzo Astorga (Jun 9, 2025 17:21 MDT)  
**Email:** lorenzoa@mesillanm.gov

**Signature:**   
**Email:** gwhited@mesillanm.gov

**Signature:**   
Thomas Maese (Jun 9, 2025 18:22 MDT)  
**Email:** thomas.maese@rld.nm.gov

**Signature:**   
**Email:** MESILLACED@MESILLANM.GOV

## ADMINISTRATIVE APPROVAL

**PZHAC: 6/16/2025**

**BOT: 6/23/25**

**DAC ACCOUNT – R0400095**  
**BLDG CODE – NR**  
**EVALUATION COST- N/A**  
**FEE - \$150.00**

**ITEM: PZHAC SUBDIVISIONS #062018** – 3000 Snow Rd, submitted by Santana Ochoa. Requesting approval to subdivide in order to install a manufactured home on the property. ZONE: Rural Farm (RF).

### **BACKGROUND AND ANALYSIS:**

Mr. Ochoa is looking for approval to install a pre-manufactured home on the property. The home is approximately 76' x 30. A in 2023 was presented to the PZHAC on the same private road requesting to build a home. Commission denied due to the 14 acres on Fresquez Road was not properly subdivided after it was rezoned. Commission at the time considered to approve if the owners of the property would submitted a subdivision to record current property boundaries.

Santana Ochoa and Felecia Fresquez are requesting to buy a manufactured home and place on property and are willing to comply with conditions set by the Commission.

### **IMPACT:**

- The PZHAC has jurisdiction to recommend approval of the applicant's request for final approval of this request to the BOT.
- The applicant has the authority to make an application request to the PZHAC and BOT.
- The applicant has the authority to appeal the decision from PZHAC to BOT.

### **ALTERNATIVES:**

The Planning, Zoning and Historical Appropriateness Commission (PZHAC) may:

1. Recommend approval of this case with findings stated above.
2. Recommend approval of this case with findings stated above and conditions.
3. Deny the application.

### **DEPARTMENT COMMENTS:**

- We have many nonconforming lots in Mesilla. This property along with the rest on Fresquez Road meets minimum standards, 1-acre. I am not able to find any records of the subdivision as the properties are described now.
- In 2023, the PZHAC had a similar case. The outcome was to submit a subdivision request in order to update current boundary lines as they are now. The condition is difficult or unrealistic. Some properties have new owners. Other properties already have a home built on them. Submitting a subdivision request would require changes in properties legal description according to Moy Surveying.
- Dona Ana County did not adopt subdivision regulations (Unified Development Code) until May 28, 1996. It is possible many property owners before were unaware of the steps necessary to subdivide in Mesilla. Property owners would go to county to record properties and requests were accepted. Some responsibility should be expected from the county to have had advised owners the proper steps as they do today.
- If Mesilla does not recognize the subdivision, why did Mesilla install stub outs for water meter on each property?

- A single-family home was built on one of the 1-acre parcels on Fresquez road. Precedence has already been set if we are worried about setting one. Although as some of us learned at our recent conference in Taos, we can't let that alone persuade our decision (case by case).
- We need to find a way to allow owners of these properties to make use of their land. Recommendations, conditions, ideas are requested.

**SUPPORTING INFORMATION:**

- Proof of Ownership
- Property Record Card
- Warranty Deed
- Minutes from Rezoning

**DETERMINATION NOTES**

- Conditions set by commission in 2023 not realistic. According to Anton, from Moy Surveying you can't just record the parcels as they are now, cause they already are! If you try to change it, you would have to change the legal descriptions of ALL the parcels on Fresquez road.
- We do not have the same property owners as we did in 1980. So, who is going to sign the subdivision application.
- Mesilla code reflects adoption of its code in March 14, 1972, according to our code. Subdivision code was not adopted until 1989.
- Dona Ana County adopted their subdivision policy on May 28, 1996.
- There are many nonconforming lots in Mesilla due to Dona Ana recording property splits without consent from Mesilla. Is it possible, county and property owners were not aware?
- County parcel map is for tax purpose not for legal boundaries. Some properties show them to be different lots just for tax purposes. Example, 5 acre agricultural parcel can show 1 acre parcel where the house is at and 4 acres of farm land but it is still a 5 acre legal lot.
- Mesilla water/fire hydrants have been installed. Each parcel has its own water meter stub outs already identifying each parcel as they are.
- Approved 4-0, accept ALL of Fresquez road as they are currently subdivided according to Dona Ana County Parcel map.

**SUB-25 FORM**



**TOWN OF MESILLA**

2231 AVENIDA DE MESILLA  
 MESILLA, NM, 88046  
 PO BOX 10  
 575-524-3262  
[mesillaced@mesillanm.gov](mailto:mesillaced@mesillanm.gov)

CASE# 062018

- Summary Subdivision
- Preliminary Plat
- Final Plat
- Vacation of Lot Line
- Property Line Adjustment

**SUBDIVISION APPLICATION**

**APPLICANT INFORMATION**

Applicant Name <i>Santana Ochoa &amp; Felicia Fresquez</i>		Owner of Record (if not the same as applicant) <i>Santana Ochoa &amp; Felicia Fresquez</i>	
Address (if available) <i>#</i>		Mailing Address <i>PO BOX 228 Mesilla NM 88046</i>	
DL/ID # <i>101625516</i> <i>123727410</i>	Phone # <i>575-805-6528</i>	<i>575-915-0455</i>	Zone <i>R-1</i>

**SURVEYOR INFORMATION**

Surveyor <i>[Signature]</i>		Mailing Address	
License #	Email	Phone #	

**ENGINEER INFORMATION**

Engineer <i>[Signature]</i>		Mailing Address	
License #	Email	Phone #	

**PROPERTY INFORMATION**

Subdivision Name	DAC Account #R- <i>0400095/91</i>	Total Acreage <i>1</i>	# of Lots <i>1</i>
Legal Description <i>R-1 - Residential 1-Acre LOTS</i>			
Is a variance, exemption, zone change, or special use permit being requested with this property? If so, please explain:			

Signature(s): By signing this application, you hereby acknowledge that ALL the information submitted with this application is true and correct to the best of your knowledge and that all provisions of the Town of Mesilla shall be met. No application will be accepted without the original signature of the owner of records of the described property. If there is more than one owner, ALL owners must sign the application. (Attach additional sheet if necessary).

*[Signature]*  
 \_\_\_\_\_  
 Signature of Applicant  
*Santana Ochoa - Felicia Fresquez*  
 \_\_\_\_\_  
 Name (Print)

*5-28-2025*  
 \_\_\_\_\_  
 Date

## TOWN OF MESILLA CHECKLIST

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Application, completed and signed Fees Paid (Amount \$ _____)
<hr/>		
<input type="checkbox"/>	<input type="checkbox"/>	8 copies of Subdivision Plat 18" x 24" including:
<input type="checkbox"/>	<input type="checkbox"/>	Subdivision Name
<input type="checkbox"/>	<input type="checkbox"/>	Location map (inscribed on plat)
<input type="checkbox"/>	<input type="checkbox"/>	Statement of Ownership and dedication w/location for signature and notary
<input type="checkbox"/>	<input type="checkbox"/>	Subdivider's Name
<input type="checkbox"/>	<input type="checkbox"/>	Subdivider's Address
<input type="checkbox"/>	<input type="checkbox"/>	Certification Block for Mayor and Town Clerk
<input type="checkbox"/>	<input type="checkbox"/>	Certification Block for Planning and Zoning Chairperson and Secretary
<input type="checkbox"/>	<input type="checkbox"/>	Certification Block for each utility, as applicable (electric, cable, telephone, etc)
<input type="checkbox"/>	<input type="checkbox"/>	Certification Block for recording and Doña Ana County Clerk
<input type="checkbox"/>	<input type="checkbox"/>	Certification Block for professional Land Surveyor, seal and date of survey
<input type="checkbox"/>	<input type="checkbox"/>	Scale and North arrow
<input type="checkbox"/>	<input type="checkbox"/>	Benchmark location and description of all monuments found of set
<input type="checkbox"/>	<input type="checkbox"/>	Plat boundary lines (bearing in degrees, minutes, and seconds with distances in feet and hundredths)
<input type="checkbox"/>	<input type="checkbox"/>	Lot lines (bearing in degrees, minutes, and seconds with distances in feet and hundredths)
<input type="checkbox"/>	<input type="checkbox"/>	Acreage of each lot.
<input type="checkbox"/>	<input type="checkbox"/>	Address of each lot.
<input type="checkbox"/>	<input type="checkbox"/>	Lot of block numbers
<input type="checkbox"/>	<input type="checkbox"/>	Adjacent land conditions (within 150') note subdivision names and filing dates.
<input type="checkbox"/>	<input type="checkbox"/>	Easements on site (location, dimensions, purpose)
<input type="checkbox"/>	<input type="checkbox"/>	Easements adjacent (location, dimensions, purpose within 150')
<input type="checkbox"/>	<input type="checkbox"/>	Public right-of-way on site (approved name, width and curve data)
<input type="checkbox"/>	<input type="checkbox"/>	Public sire delineated (location, dimensions, purpose)
<hr/>		
<input type="checkbox"/>	<input type="checkbox"/>	Plan and profile of proposed utilities prepared by P.E. and sealed (1 copy)
<input type="checkbox"/>	<input type="checkbox"/>	Plan and profile of proposed streets prepared by P.E. and sealed (1 copy)
<hr/>		
<input type="checkbox"/>	<input type="checkbox"/>	Storm drainage analysis plan prepared by P.E. and sealed to include:
<input type="checkbox"/>	<input type="checkbox"/>	Topographic Map (1 copy)
<input type="checkbox"/>	<input type="checkbox"/>	Aerial Photograph, with dimensions delineated
<input type="checkbox"/>	<input type="checkbox"/>	Storm Drainage Analysis report (1 copy)
<input type="checkbox"/>	<input type="checkbox"/>	Grading Plan (1 copy)
<hr/>		
<input type="checkbox"/>	<input type="checkbox"/>	Deed Restrictions (signed and notarized)
<input type="checkbox"/>	<input type="checkbox"/>	Improvement Completion Report
<input type="checkbox"/>	<input type="checkbox"/>	Disclosure Statement (if applicable)
<input type="checkbox"/>	<input type="checkbox"/>	Request for Variance (if applicable)
<input type="checkbox"/>	<input type="checkbox"/>	NMED Approval (if applicable)
<input type="checkbox"/>	<input type="checkbox"/>	State Highway Permit (if applicable)
<input type="checkbox"/>	<input type="checkbox"/>	Other _____
<input type="checkbox"/>	<input type="checkbox"/>	Other _____

# Property Record Card

Doña Ana Assessor

**FRESQUEZ RICHARD E &  
PATRICIA A**

PO BOX 342  
MESILLA, NM 88046-0342

Neighborhood

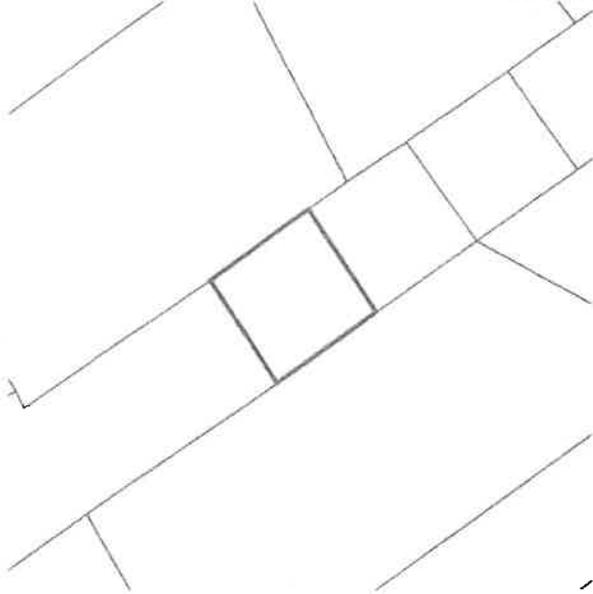
S11 - MESILLA

**Account: R0400091**  
Tax Area: 2DIN\_NR - 2DIN\_NR  
Acres: 1.000

**Parcel: 4-005-138-310-470**  
Situs Address:  
SNOW RD  
Mesilla, 88046

**Legal Description**

S: 35 T: 23S R: 1E BRM 12 PT OF TR 9A1A



**Land Occurrence 1**

Property Code	0400 - AGRICULTURAL LAND	Measure	PA - PER-ACRE
Street Code	SI - SEMI-IMPROVD	Topography Code	L - LEVEL
Acres	1	SQFT	43560
Zoning	R1 - SNGL-FAM-RES		

SubArea	ACTUAL	EFFECTIVE	HEATED	FOOTPRINT
Acres				
Sq Ft				
Total				

**Assessment History**

Type	Actual	Assessed
Agriculture Land	\$1,000	\$333
Actual (2025)	\$1,000	
Primary Taxable		\$333

## Exhibit A

A tract of land situated within the limits of the Town of La Mesilla, Dona Ana County, New Mexico. Lying in the SE  $\frac{1}{4}$  of Section 35, Township 23 South, Range 1 East, N.M.P.M. of the U.S.R.S. Surveys. Being part of U.S.R.S. Tract 12-9A and more particularly described as follows, to wit:

BEGINNING at a point on the Southeast Corner of the tract herein described, whence the South  $\frac{1}{4}$  Corner of Section 35 bears the following distances: S 44 degs 21' 55" W a distance of 896.09 feet.

THENCE FROM THE POINT OF BEGINNING N 35 degs 35' 00" W 206.39 feet to the Northeast Corner of the tract herein described;

THENCE S 54 degs 46' 00" W 211.50 feet to the Northwest Corner of the tract herein described;

THENCE S 35 degs 35' 00" E 207.60 feet to the Southwest Corner of the tract herein described;

THENCE N 54 degs 26' 20" E 211.49 feet to the point of beginning, containing 1.005 acres of land more or less.

SUBJECT to a 15 foot wide entrance easement parallel and immediately adjacent to the north of the south boundary.

Said tract being part of a tract described in the Deed Record 269, Page 683 of the Records of Dona Ana County, New Mexico.

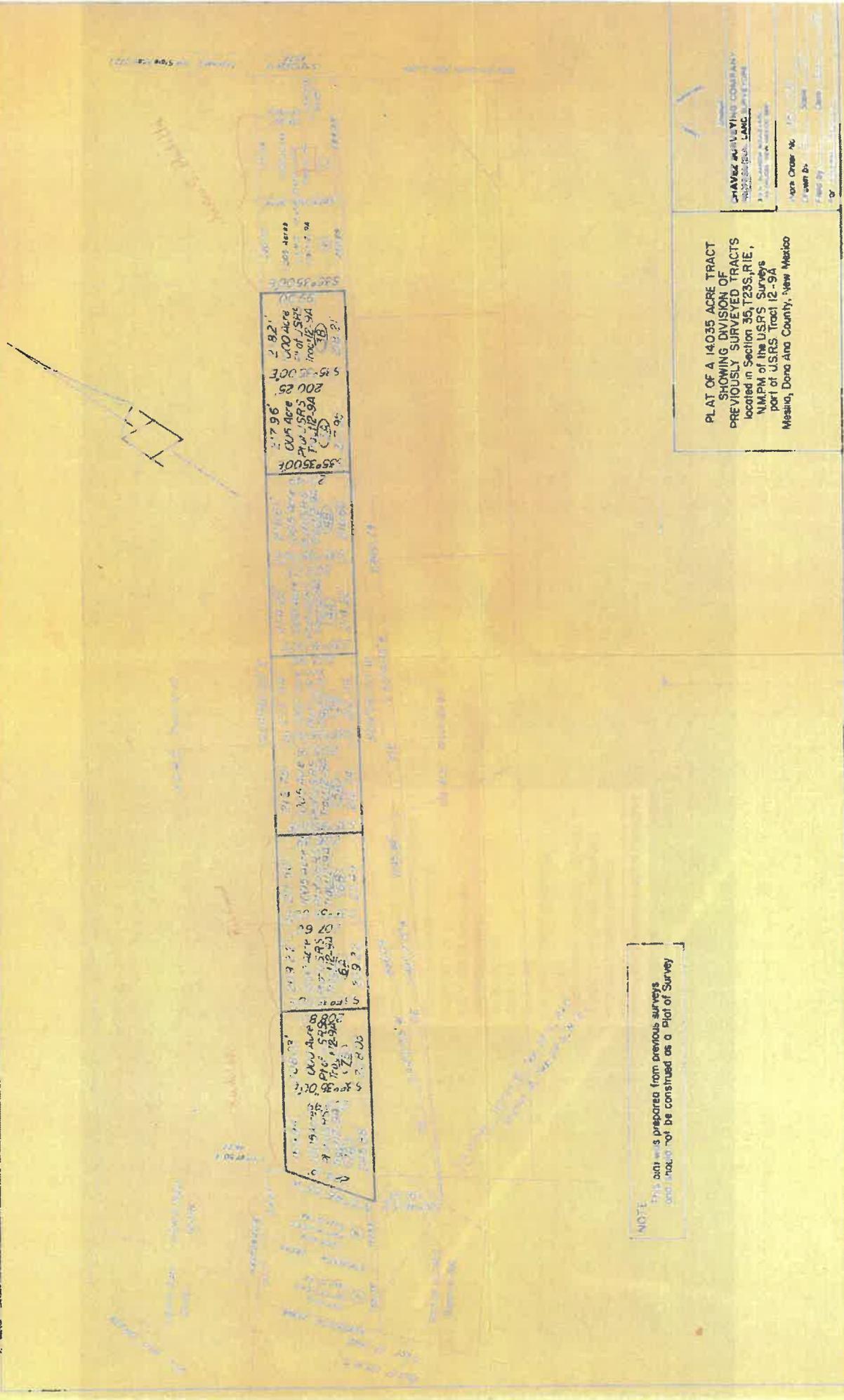
Tract 6B

F# 13245 PROP. CODE 02M 4005-138-320-470 PC# 04-00095



(1 of 3) Parcel: **FRESQUEZ RICHARD E & PATRICIA A**  
 ACCOUNT NUMBER: R0400095  
 PARCEL NUMBER: 4005138320470  
 OWNER NAME: FRESQUEZ RICHARD E & PATRICIA A  
 MAILING ADDRESS: PO BOX 342  
 CITY: MESILLA  
 STATE: NM  
 ZIP: 88046-0342  
 SUBDIVISION NAME:  
 SITE ADDRESS: SNOW RD  
 ACREAGE: 1.00  
 SQUARE FOOTAGE: 43,560.00  
 TOTAL VALUATION (LAND & BUILDING):  
 ASSESSOR PARCEL INFORMATION DETAIL  
[LINKS](#)  
 Zoom.io

Y VALLEY LN



PLAT OF A 14035 ACRE TRACT  
 SHOWING DIVISION OF  
 PREVIOUSLY SURVEYED TRACTS  
 located in Section 35, T23S, R1E,  
 N.M.P.M. of the U.S.R.S. Survey  
 part of U.S.R.S. Tract 12-9A  
 Mesaño, Dona Ana County, New Mexico

CHAVEZ SURVEYING COMPANY  
 10000 1st St. N.E. Albuquerque, N.M. 87110  
 Phone: (505) 243-1111  
 Fax: (505) 243-1112  
 E-mail: chavez@chavezsurveying.com  
 Website: www.chavezsurveying.com

Scale: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Drawn by: \_\_\_\_\_  
 Checked by: \_\_\_\_\_  
 Title: \_\_\_\_\_

NOTE: This plat was prepared from previous surveys and should not be construed as a plat of Survey

# WARRANTY DEED

Richard E. Fresquez and Patricia A. Fresquez, for  
consideration paid, grant as her sole and separate to Felicía P. Fresquez  
Property  
whose address is P.O. Box 728, Mesilla, N.M. 88041

the following described real estate in Dona Ana County, New Mexico:

(See Exhibit A)

with warranty covenants.

## SIGNATURE AND ACKNOWLEDGMENT

Your signature: Patricia A. Fresquez Richard E. Fresquez  
Date: May 27, 2025  
Your Name: Patricia A. Fresquez RICHARD E. FRESQUEZ

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF Dona Ana )

This instrument was acknowledged before me on this 27<sup>TH</sup> day of May,  
20 25 by PATRICIA A FRESQUEZ, RICHARD E FRESQUEZ

[Signature]  
NOTARY PUBLIC

My commission expires: 03/09/2026

STATE OF NEW MEXICO  
NOTARY PUBLIC  
AZALEA SALAZAR  
COMMISSION NUMBER 1137561  
EXPIRATION DATE 03-09-2026

2511449  
WARRANTY DEED  
Amanda López Astin, County Clerk, Dona Ana, NM  
MAY 27, 2025 04:38:04 PM PAGES: 2  
Deputy: Tammy Goodman

# Property Record Card

Doña Ana Assessor

**FRESQUEZ RICHARD E &  
PATRICIA A**

**Account: R0400095**  
Tax Area: 2DIN\_NR - 2DIN\_NR  
Acres: 1.000

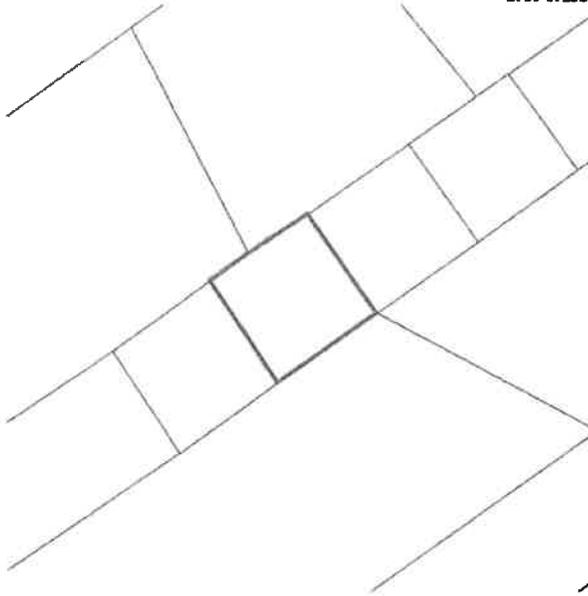
**Parcel: 4-005-138-320-470**  
Situs Address:  
SNOW RD  
Mesilla, 88054

PO BOX 342  
MESILLA, NM 88046-0342

Neighborhood S11 - MESILLA

**Legal Description**

S: 35 T: 23S R: 1E BRM 12 FT OF TR 9A1A



**Land Occurrence 1**

Property Code	0400 - AGRICULTURAL LAND	Measure	PA - PER-ACRE
Street Code	SI - SEMI-IMPROVD	Topography Code	L - LEVEL
Acres	1	SQFT	43560
Zoning	R1 - SNGL-FAM-RES		

SubArea	ACTUAL	EFFECTIVE	HEATED	FOOTPRINT
Acres				
Sq Ft				
Total				

**Assessment History**

Type	Actual	Assessed
Agriculture Land	\$1,000	\$333
Actual (2025)	\$1,000	
Primary Taxable		\$333

PLANNING & ZONING & HISTORICAL APPROPRIATENESS  
COMMITTEE

PUBLIC HEARING

17 SEPTEMBER 1979

MEMBERS PRESENT:

WALT CONLEY, Chairman  
STEVE LOMAN

TOWN CLERK: Barbara A. Brown

OTHERS ATTENDING:

Henry Rader	Box 418, Mesilla, NM
Salomon M. Perez	Box 456, Mesilla, NM
E. L. Fresquez	Box 228, Mesilla, NM
Gertrude Fresquez	Box 228, Mesilla, NM
Grey Giordano	General Delivery, Mesilla, NM
A.M. Wierenga	215 Capri Rd, Mesilla, NM
Kathy Freas	Box 268, Mesilla, NM
Rosalie Ann Rader	Box 418, Mesilla, NM
Paul Rader	Box 418, Mesilla, NM
Richard Fresquez	Box 342, Mesilla, NM
Viola Fresquez	Box 401, Mesilla, NM
Rudolph V. Fresquez	Box 401, Mesilla, NM
W.W. Sanders	Box 128, Mesilla, NM
Lorna Harris	Box 338, Mesilla, NM
Gloria Clayschulte	Box 37, Mesilla, NM
Lucille Eickholtz	Box 362, Mesilla, NM
George V. Gallegos	Box 352, Mesilla, NM
Lillian F. Gallegos	Box 547, Mesilla, NM
Sandra Reitmeyer	Box 407, Mesilla, NM
Roberto L. Fritze	Box 32, Mesilla, NM
Priscilla Romero McComas	Box 436, Mesilla, NM
Newman T. Reed	Box 686, Mesilla Park, NM
Stephen T. Black	Box 507, Mesilla Park, NM
J. Paul Taylor	Box 133, Mesilla, NM
Hilbert G. Valencia	906 Lees Drive, Las Cruces, NM
Edward DiMatteo	1801 E. Colorado, Las Cruces, NM
Genero DiMatteo	Rural Route 4 Box 671, Las Cruces, NM
A.S. Alvarez	Box 81, Mesilla, NM
Fred Widmeyer	Rt. 1 Box 2170, Las Cruces, NM
J. K. Clayshulte	Box 117, Mesilla, NM
Allene Foreman	Rt. 4 Box 603, Las Cruces, NM
Ben Alvarez	Mesilla, NM
Ramona F. Duran	1535 Martha Dr., Las Cruces, NM
Armidia Padilla	Mesilla, NM
Juan S. Padilla	Mesilla, NM
Salomon R. Perez	Box 456, Mesilla, NM
Delfina F. Perez	Box 456, Mesilla, NM
Mary Shelton	Las Cruces Sun News Reporter

Walt Conley, chairman, called the meeting to order at 7:30 p.m. Mr. Conley stated that three petitions to rezone had been submitted each owning lots of approximately 5 acres. Because the three parcels of property are adjacent it

was decided to hold the public hearings at the same time. Mr. Conley stressed that they were separate petitions. He stated that each petitioner would be heard separately in the following order: Juan Padilla, Elizario Fresquez, and R.V. Fresquez. Then next group to be heard would be the adjacent land owners and on down the line. The petition requests a change from R-F zoning (5 acres) to R-1 zoning (one acre).

Juan Padilla: The intent was to file one petition instead of three separate ones since it involved property that is under one ownership. If we can get a request through this board to R-1 zoning so we can deed the land to our father-in-law. His intentions were to split the land between all the children. The reason we have 5 acres now is because we had to have the land. I understand that in cases similar to ours the determining factor in rezoning is the contiguous land owners. As long as it is not for speculation reasons or that it does not adversely affect the surrounding land owners.

Loman: Do you own a house on this land?

Padilla: Yes. Five acres abutting Snow Road. Our intent is to deed back four acres to my father-in-law. The intent was decided back in 1963 or so.

Elizario Fresquez: Asking for this rezoning because this piece of property has been in the family for over a century. Not to be subdivided for profit, but to divide it among my children as it was done by my father before me.

Loman: You have 14 children?

Fresquez: I have 8 children that it will be divided between.

Loman: Would the construction likely occur in a reasonably short period of time?

Fresquez: Several years. Not at the moment. They may decide to vote or whatever.

Loman: This gift would it be incumbent on them building on that land? If they did not want to build would they sell to someone else?

Fresquez: If they don't want it they could make arrangements among themselves.

Loman: Would it have covenants that if they did not build on it that they would have to divide it among the adjacent property owners?

Fresquez: Yes

Loman: You don't think the children would want to sell it to someone else outside of the family?

Fresquez: No.

Richard Fresquez: As far as the stipulations, once he has willed this land to the family, there would be a stipulation that it stay within the family.

Rudolph Fresquez: House is on 5 acres. Our intentions were that when we built there was to just get my share and deed the rest back to my dad. I don't think we should have five acres and my Dad have four. My brother and sister want to build and it is only fair that each member get their equal share.

Conley: We are talking about a block of land that is 14 acres and dividing that block of land into eight equal parcels of 1 3/4 acres in size. Comment from land owners adjacent to the property.

Town Clerk read letter from Homer and Susie Waters: We would like to go on record as being opposed to the "one acre" zoning change next to our property at this time. It has been stressed numerous times that there is a need for a Master Plan for the entire town of Mesilla; one derived after careful planning and consideration by the Planning & Zoning Board with input from citizens; and qualified experts.

Piece meal type spot zoning is not the answer. Each and every citizen should be given the same consideration on an equal basis not just a select few, as has been happening in recent months.

We feel we would all agree there is a need for change but not "radical-jump before you think" type actions. The irresponsible "don't give a damn" type attitudes shown by some trustees is and can be very dangerous.

Mesilla should be treated as one would a child, it should be nurtured and cared for as it grows. Please take time to consider all aspects of these changes. Take one step at a time and the end result will be well worth the effort. Homer & Susie Waters

17 September 1979

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Padilla: asked that the petitions be read.

Town Clerk read the petition be read: STATEMENT OF SUPPORT We, the undersigned property owners within Mesilla, have no objection to the proposed zone change requested by Mr. & Mrs. Elizario L. Fresquez and Family. The zone change being from RF (5 acres) to R-1 (1 acre). We understand that the reason for the zone change is to that Mr & Mrs. Fresquez can divide the property among their sons and daughters in accordance with their will. Each child will be able to build their home on approximately one and three fourths acre (1 3/4). This property has been in the Fresquez family since the early 1800's.

Names: Gregorio Aranda, A. S. Alvarez, Kenneth E. Taylor, Simon Guerra, Frank Alvarez, Sotero Lopez, Mr. & Mrs. B. S. Flores, Mr. & Mrs. Charles Espinosa, Mrs. Delfina F. Perez

Delfina Perez: Stated she was a property owner and adjacent to this property. I am in favor of the change because of the hardship by the present zoning regulations. There is no intention of selling this land.

She explained that the land had been in the family for four generations.

John Clayschulte-Property Owner. We have long considered that the zoning regulation does not provide for several situations. They should be able to do this but we have to be cautious so that it is not abused. We should sit down and consider what this will do in the long run. Until we consult an attorney and if this is a bonifide case a few more months shouldn't bother him, if that is what he wants do do. I think the rest of the people in Mesilla need protection and it can be abused in some cases.

Conley: Could you give a definite statement whether you are for or against this change.

Clayschulte: I would not like to see it at this time, but incorporated in an entire package at another time. Old time families here should be able to give it to their children. I would be against it at this time.

Horace Coburn: Lives 1/4 mile east of the Gin. He questioned the idea of keeping this land in the family, i.e. first dividing it up among 8 children and they would divide it up maybe four more ways if they had four children, etc.

If we establish a precedent of keeping the land in the family for everybody, then we run out of land for everyone. Asked to beg for time and hopefully this aspect of establishing a precedent for families could be weaved into the whole picture.

Kathy Freas: She stated her objections to spot rezoning. She did feel sympathy for the family, but was not in agreement with the way it was being approached at this time.

What might be a better solution that would still fit with the wishes of this family, but also maintain the integrity of Mesilla, in the overall zoning that this board is trying to come up with. This is something that is very important. We can't forget the family in trying to preserve the historical integrity because we haven't preserved anything if we haven't done that.

Allene Foreman: I wish to express the approval for myself and Mr. Foreman. We feel that to deny it would be in violation of all moral standards, etc. His right to leave his property equally to his children. I believe he made a will.

She quoted a precedent case back in 1976 where a woman was allowed to build on a smaller piece of property.

Sandra Reitmeyer: I agree in principal to divide, but I see the potential abuses. She further stated she felt this type of problem should be incorporated in an overall plan. I would have to say no unless there are some safety guards.

Loman: Would you be willing to consider restrictive covenants on this property that would allow this property to remain in the family? The covenants could have a defined life time of say 40 years or 50 years. Some of that might answer some of the questions that have been asked tonight.

Richard Fresquez: Initially we want to leave it in the family. The inheritance is within the brothers and the sisters and their own children would take over this land. As far as I can see, it wouldn't be any others.

Lorna Harris: I would like to ask the board if you are talking about dividing this land eight different ways, to R-1. Are they intending to build homes on this 1 3/4 acres?

Conley: Rezoning to R-1 allows one house to one acre.

Lorna Harris: I am opposed. It would set a precedent for urbanization of rural valley farmland. I think we do need time. Taking precedent to further urbanization to the valley.

Paul Rader: I share my sympathy in the Fresquez dilemma. Even with the possibility of protective covenants, during times of economic problems within the family this is not a good solution. Unless those covenant restrictions for 1 3/4 acre and adding up 1/4 acres which would make it the most productive. We could find up to 14 dwellings and it would be a smaller development. We are heading for a problem. There are people who could come in there and take advantage. We have to look at the historical aspect of it. However it comes about, it still amounts to a subdivision. They need police protection, streets, etc. These are all the things people come to expect. The town is faced with creating those services. Without the revenue returns. The Town of Mesilla seems to be incapable of services existing for land owners. This board has the obligation to look at it without sentiment, but the row of houses. This would be a seed bed of future development, unless there is a legal agreement for review. It is a severe imposition. Children have come to curse protective covenants. We should wait until all things are looked at. I am opposed at this time.

Roberto Frietze: Property owner. I think that it is beautiful that the property goes from one generation to another. I agree with Mr. Radar and then if someone else comes in and wants to divide, and you don't because they are in Mesilla. Right now I would not want it to go until it can be studied legally and with experts to make sure we are doing the right thing.

Henry Radar: I live in Mesilla. I do sympathize with the Fresquez to a certain extent a change from R=F to R-1 would allow more housing in Mesilla for everyone. Crime rates would go higher and we would have to support all this stuff. And as everybody knows the Town has enough problems. We don't need the extra burden. Now have enough fire protection and we can't afford any more. If they are going to expand our fire protection I really do think the Fresquez should stop and think about this. I agree that a small change would do the town a little good.

Ben Alvarez: Resident of Mesilla. I think it is a hardship what they are going through. Mr. Fresquez has been working on that farm with the idea of some day giving that land to his children and now by zoning regulations it can't be done. I think that it is very important that that right be given to him. I think I would disincorporate or go to the County or City of Las Cruces.

Angel Carreon: With zoning ordinances it is either you will be going to court if you do and if you don't. I would rather go to court if we agree than if we oppose. Because we will be going against his constitutional rights. I am in favor.

Fred Widmoyer: Opposed to proposed zone change. In that I am not against the Fresquez and the rest of the family. Mesilla cannot afford services that are already in town and on the outskirts.

He felt that there needed to be barrier zones and that if this change was approved that all land in Mesilla should be zoned one acre.

Salomon Perez: Trustee for the Town of Mesilla. My reason for coming up to speak tonight is that things people don't know--I am related to Mr. Fresquez by marriage to his daughter. Quite a few things have been brought up that are very interesting. Some don't address the issue. Everybody has that right to request a zone change. We have a plan that was adopted by the Town of Mesilla but it has never been used. I hope that this board will refer back to the guidelines that they have back in this ordinance. And review the Master Plan. The issue is whether this board will allow Mr. Fresquez to implement a plan that his father has brought forth. Talked about this plan with his children and I think they are here to support it. My wife is the

17 September 1979

9th one and already has her inheritance which we received before 1972. We enjoy our land and a way we feel that because we were fortunate in beating a law that was here after us. And the Fresquez were here before the zoning ordinance. We feel the Town of Mesilla was wrong in not considering. We know that a lot of people do own land that they will want to divide it at some time. Everybody has a right to petition this board and the matter is decided on the merit of the case. I believe that a lot of people come up that they say that some people have given a lot of rights that others have not is untrue.

Rosalie Rader: Opposes this change for the fact that it is done very fast. No experts whatsoever in the zoning of these properties and before we step into something that is of a serious nature to this town. Everyone of us has a piece of us that belongs to us. What about the people that object to it? I think if we get together maybe we can come to some compromise. I don't think community can be changed this fast.

Reitmeyer: What happens to the property?

Conley: The question is not what happens to it, but whether to rezone to R-1.

Carreon: I would like to talk to the board about this because your recommendation will go to us the Board of Trustees. If we are going to court one way or the other, I would rather go to court because the request was granted. I am almost sure that if the request goes to court they will win.

Kathy Freas: I think that even though the board has to make a decision on R-F to R-1 that the real question is if this family is going to get their request. In the past with the Alvarez case the board asked that they meet with Mr. Alvarez and his group to work out a situation that would be agreeable with all people. Perhaps an agreement could be reached in this case. I think that we need to be aware of the problems that might come along. My husband and I just built a house. We did some things different because we did something different. It is not necessary that we consider these 8 homes to be a big development. I think that is over reaction I think it is a little silly that we are going to court over this. It seems that a variance also considering the fact that this will was made a long time ago.

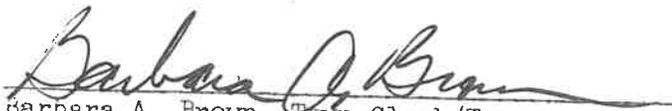
Paul Taylor: I really think we shouldn't speak because it almost precludes our vote at the Board of Trustees. I think we should listen to what is said. I think the Fresquez has a very legitimate request based on cultural and family desires. I think that we have been flooded with four requests which are beginning to appear that we are really wanting to change the zoning laws without the thought. I really think that all of us should feel that we should wait a little while. I really would not be surprised that in some cases a decision should be made. We need to think beyond today and individual requests and should think of the future and the planning that could result. I am not in sympathy with doing this without a total plan.

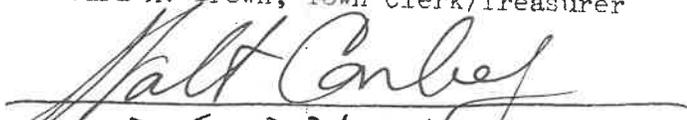
Allene Foreman: People wish to preserve their traditions and cultures and this is an extension of that. I have heard so many times that I feel that is what they are doing and they should have it.

Conley stated that letter or comments would be received for ten days, day #1 starting tomorrow.

Meeting adjourned 8:35 p.m.

Respectfully Submitted,

  
Barbara A. Brown, Town Clerk/Treasurer

  
WALT CONLEY Chairman Mes-112 p 2

LA MESILLA PLANNING & ZONING & HISTORICAL APPROPRIATENESS COMMISSION  
SPECIAL MEETING  
OCTOBER 18, 1979

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CHAIRMAN: Walt Conley  
MEMBERS PRESENT: Steve Loman  
Owen Weeks  
OTHERS PRESENT: Kathy Freas Genevieve Widmoyer  
R.V. Fresquez Carolene Herbel  
A.M. Wierenga Henry F. Gil  
Salomon Perez Delfine F. Perez  
Alleene Foreman Gertrude Fresquez  
Elizario Fresquez Viola Fresquez  
Richard Fresquez Juan S. Padilla  
Armida Padilla Charles Perez  
Grey Gordan

The Special Meeting was called to order by Chair<sup>man!</sup>person Walt Conley.

NEW BUSINESS:

CASES UP FOR APPROVAL:

CASE #132-79-Carolene Herbel-Building Permit

Loman: Motion: I move to accept Case #132-79-Carolene Herbel-Building Permit  
Weeks: 2nd Motion  
Vote: Unanimous

OLD BUSINESS:

Case #103-79-R.V. Fresquez-104-79-Elizario Fresquez-105-79-Juan Padilla

Extensive discussions relating to the problem of a subdivision and the fact that subdivision regulations would apply to any development of the land in question.

Steve Loman stated that Case #103-79, 104-79, and 105-79 be considered in a single motion applicable to the three cases.

Loman: Motion: I move to accept the petition to rezone to R1.  
Weeks: 2nd Motion  
Vote: Weeks, Yes Loman & Conley, No

The petitions are therefore denied.

DISCUSSION OR STIPULATION: Recommendation is to deny the petitions to rezone and this will be sent to the trustees. Steve Loman thinks the problem is larger than the family wish. The applicants were advised of their right to appeal.

THERE BEING NO FURTHER BUSINESS, MEETING WAS ADJOURNED:

Respectfully Submitted,

Owen Weeks  
Owen Weeks, P&Z&HAC Secretary

Perez: Motion: I move that a workshop be set up for the review of the proposed personnel ordinances and policies for the Town of Mesilla on the 20th of November at 7:00 p.m. at the Fire Department.  
Dixon: 2nd Motion.  
Vote: Unanimous.

NEW BUSINESS:

HOUSING REHABILITATION

Status report from Michael Rivera on Pre-application and Resolution 79-7. Board action required. Also request to attend conference.

Mr. Rivera noted that the board attended the public hearing and therefore was aware of the citizen advisory committees suggestion.

Perez: Motion: I make a motion that the Board of Trustees adopt Resolution 79-7 titled the U.S. Department of Housing and Urban Development Pre-application for Community Development Block Grant in the amount of \$1,200,000.  
Dixon: 2nd Motion  
Vote: Unanimous.

Mr. Rivera requests permission to attend conference in Dallas, Texas, on November 19 and 20.

Dixon: Motion: I make a motion we approve the attendance of the conference for the 19th and 20th.  
Carreon: 2nd Motion.

Taylor asked if there was enough money in the budget.

Mr. Rivera answered that there was.

Vote: Unanimous.

APPEAL REQUESTED FOR REZONING

Appeal filed by R. V. Fresquez, Elizario Fresquez, and Juan Padilla.

Carreon: Motion: I move that the Board of Trustees accept the appeal of Fresquez, Padilla and Fresquez, Cases #103, 104, and 105.  
Dixon: 2nd Motion.  
Vote: Unanimous.

Carreon: Motion: I move that in accordance with the Planning & Zoning Ordinance of the Town of Mesilla, Section 10-15, that the Clerk request from the secretary of the Planning & Zoning Commission all records and correspondence from cases #103-105 for the Board of Trustees and public hearing be set up in accordance with Section 10-16. Meeting date to meet the 15 day requirement but not to exceed 21 days, meeting set for Monday December 3, 1979 at 7:00 p.m.  
Dixon: 2nd Motion.  
Vote: Unanimous.

APPEAL REQUESTED FOR VARIANCE

Correspondence from Leroy Lozier.

Town Clerk read letter from Mr. Lozier.

BOARD OF TRUSTEES PUBLIC HEARING

December 3, 1979

AGENDA: Elizario Fresquez, R.V. Fresquez, Juan Padilla (Case # 103, 104, 105)

MAYOR: Mary Frances Leslie

TRUSTEES: Salomon Perez  
Angel Carreon  
Wesley Dixon

TOWN CLERK:  
Barbara A. Brown

OTHERS:	Mary Shelton	Armida Padilla
	• John Jozwik	Mrs. Delfina Perez
	L.W. Leslie	Mrs. Vida Fresquez
	Randolph Reese	Ernesto Lopez
	E.L. Fresquez	Roy Foreman
	Rudolph V. Fresquez	Alleene Foreman
	Richard Fresquez	Cruz Alvarez
	Jaun S. Padilla	Ben Alvarez

Mayor Leslie opened the meeting at 7:00 p.m. Mayor Leslie stated the hearing was to investigate and hear comments in regards to the appeal filed by the Fresquez families, in accordance with Section 10-16 of the Mesilla Planning & Zoning Ordinance. She also stated written statements would be accepted until Wednesday, December 12, 1979. The meeting was limited to 9:00 p.m.

Randy Reese representing the Fresquez and Padilla families outlined the circumstances behind his clients request:

The zoning change is from RF to R-1 zoning involving a total of 14 acres for the purpose of allowing Mr. & Mrs. Fresquez to divide the land between eight children, 1 3/4 acres each. Three children already having been allotted their share. The following are the differences in the two zones: 1) RF zone does not talk about community water supply, but there is community water available on Snow Road. 2) Lot size is five acres versus one acre. One acre is a low density lot and provides for plenty of room and does not create a great urbanization. The Fresquez family wants to preserve the land which has been in the family for more than a century. There is a subdivision act, but it would be difficult for the family to comply immediately. Part of the purpose of the zoning ordinance and one of the things that is continually brought forward in the Town of Mesilla, is to preserve the charm and heritage. Stated this was as much a part of the people as of the people. Growth is coming and the question is whether Mesilla wants the growth to come from within the Town or from some place else. Asked the Board to allow the zone change.

Rudy Fresquez: Asked the Board to consider the zone change and his father's wishes to leave this land to his children.

Juan Padilla: Asked the Board to also consider the zone change and his father-in-laws wishes.

Elizario Fresquez: Stated he was presenting his wishes to the Board of Trustees according to his will and he asked the Board to consider his wishes.

Alleene Foreman: Asked the Board to rule favorably for the zoning change and criticized the Zoning Ordinance.

Dixon: How long has this land been in the family.

Reese: Since the 1880's.

Cruz Alvarez: Stated he was in favor of the change.

Jozwik: Stated he was interested in the law and the legality of the case, not it's merits. He felt the application was improperly filled out. He also questions the title to the property, noting he had done research at the county courthouse on deeds. Accordingly, part of the land belonged to another person before being transferred in the 1970's to the Fresquez family. He also questioned deeds drawn up separately for four acres and one acre for R.V. Fresquez and Juan Padilla. He submitted a letter to explain in detail his observations.

Wierenga: How is property zone adjacent to the Fresquez?

Mayor: Rural Farming.

An argument ensued between Mr. Carreon and Mr. Jozwik.

Cruz Alvarez stood up and expressed his opinion of the situation.

Henry Rader: I have deep anger for all this fighting. I am completely opposed to all this B.S.

Reese: Explained why the land was originally deeded in four and one acre tracks. The zoning on adjacent land is RF, but there is some R-1 on Snow Road.

He stressed that Snow Road was one of the paved roads in Mesilla and that this would be a preferable place to locate residential units.

Mayor Leslie: Asked legally whether dividing this property would allow other property owners to have the same privilege.

Reese: Stated each case should be reviewed individually. The Board must look at the adjacent zone as to the compatibility. He felt the Board would eventually be faced with all the land along Snow Road being zoned residential in the future.

Mayor Leslie: Stated that the zoning ordinance states each case will be reviewed separately, but how would an attorney approach the case if the Board passes this request.

Reese: Legality, the law in New Mexico is not complete, the indications are that the adjacent zone is not determinative of an application of the adjacent zone. Cases have been denied. Many communities are served by drawing a line. You will always be faced with a decision where we have granted so and so the zone. Status of law would uphold the wishes of the community. The one principle merit of the zoning application is whether or not the zoning asked for serves the community purpose. Chances are the courts will uphold your actions no matter what your actions are.

Mayor: If the property is divided what is the law in relation to ingress to any property.

Reese: No law except subdivision. Ingress and egress. Conveyance by will is probably not subject to the subdivision act. Mr. Fresquez states the transfer in his will and is not subject to the subdivision act. Even if Mr. Fresquez did not make a will. No parcel of land is to be denied public access. Easement by necessity. All that needs be done is to go to court and tell the judge I cannot get to a public road from my property. It happens all the time with all the federal BLM Land. An easement can be obtained by a court process if necessary.

Mayor: Zoning is R-1 but division will be 1 3/4 acres. Do you feel we should have an amendment to our zoning act?

Reese: I think you and your members know that your zoning ordinance should have some amendments. This charming Town is caught up in the Mesilla Valley. You will be faced with growth and you need a comprehensive ordinance that can accommodate that. You have an ordinance that will preserve the status quo. The only thing that will cut us off is the availability of water. Climate and place in the sun is too attractive to the people in the northern states that are going to keep coming here. Five acres is not a good concept in this valley. Maybe it will be for another 10-15 years but eventually you will receive a challenge. Five acres is a density that is unheard of. Five acres is a difficult number to farm, you need more land to make it cost effective.

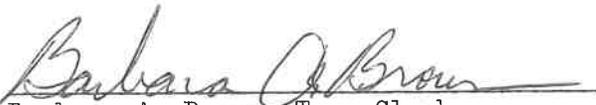
Carreon: I want to put this on the agenda for our next regular meeting.

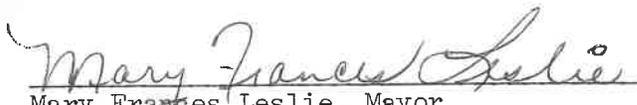
Mayor Leslie: Stated that she intended to do that.

Meeting adjourned at 8:00 p.m.

Respectfully Submitted,

SEAL:  
ATTEST:

  
Barbara A. Brown, Town Clerk

  
Mary Frances Leslie, Mayor

BOARD OF TRUSTEES REGULAR MEETING  
December 10, 1979

MAYOR: Mary Frances Leslie

TRUSTEES: Angel Carreon  
Wesley Dixon  
Salomon Perez

TOWN CLERK:  
Barbara A. Brown

OTHERS:	Rosalie Rader	E.L. Fresquez
	Paul Rader	Alleene Foreman
	Ed Southworth	Armida Padilla
	L.W. Leslie	Richard Fresquez
	Ralph Lucero	Henry Gil
	Susie Waters	Ben Alvarez
	A.M. Wierenga	Erik Ness
	Florence Hall	Joe Smith
	Owen Weeks	Jimmy Harris
	William Reitmeyer	Buford Harris
	W.D. Sanders	G. J. Widmoyer
	Juan Padilla	Mary Shelton
	R.V. Fresquez	

Mayor Leslie opened the meeting at 7:35 p.m.

Perez: Motion: I move to table the set of minutes for November 14, 1979. Questioned some conclusions that were reached, the conclusions reached were only the opinion of whoever was typing.

Carreon: 2nd Motion.  
Vote: Unanimous.

Carreon: Motion: I move we approve the minutes of November 15, 1979.  
Perez: 2nd Motion.  
Vote: Unanimous.

Perez: Motion: I move the approval of the minutes of November 26, 1979.  
Carreon: 2nd Motion.  
Vote: Carreon, Perez, yes. Dixon, abstain.

Carreon: Motion: I move the approval of minutes of December 3, 1979.  
Dixon: 2nd Motion.  
Vote: Unanimous.

OLD BUSINESS:

FRESQUEZ, FRESQUEZ, PADILLA APPEAL  
Decision on Appeal requested. Motion required.

Carreon: Motion: I move to have the Planning & Zoning reconsider this application and send it back to them for further consideration per Section 10-17, Planning & Zoning Code.

Dixon: 2nd Motion.  
Vote: Unanimous.

LA MESILLA PLANNING & ZONING AND HISTORICAL APPROPRIATENESS COMMITTEE

REGULAR MEETING

December 18, 1979

CHAIRPERSON: Walter Conley

MEMBERS PRESENT:

Kathleen Eastman  
Robert McComas  
Owen Weeks

OTHERS PRESENT:

Frank Terrazas  
M.O. Guerra  
Leonardo Soltero  
Remigio Varela  
E.J. Hans  
Erik L. Ness  
Jose Terrazas  
Lalo Terrazas

Chairperson Walt Conley called the meeting to order.

Motion to accept minutes for December 4, 1979, with the exception of Item #1 under "Additional New Business". Item #1 Additional New Business, relates to the Planning & Zoning and Historical Appropriateness Committee's concern with the processing of all building permits. This item has been tabled pending information from the Town Clerk and further discussion of the wording.

McComas: Motion: I move to accept the modified minutes, for December 4, 1979.  
Eastman: 2nd Motion.  
Vote: Unanimous.

OLD BUSINESS:

Case # 82-79 Alvarez Appeal

Alvarez appeal for rezoning the property in question to a Commercial Zone.

DISCUSSION: The case has been approved by the Board of Trustees contrary to the recommendation of the Planning & Zoning Committee. The present action is a referral once again to the Planning & Zoning for their reconsideration.

McComas: Motion: I move to vote to reaffirm the Planning & Zoning Commission position that the Case #82-79 be denied and that the secretary present to the Board of Trustees in writing, the reasons for this opinion.

Eastman: 2nd Motion.  
Vote: Unanimous.

The Chairman approved the motion also.

Case # 103, 104, 105 Fresquez, Fresquez, Padilla

DISCUSSION: These cases have been approved contrary to the recommendation of the Planning & Zoning Commission and now have been sent back to the Planning & Zoning Commission for further consideration.

Weeks: Motion: I move to reaffirm the Planning & Zoning Commission's previous position which was to deny the petition revealed in Cases 103, 104, 105.

McComas: 2nd Motion. The provision was made that the secretary advise the Board for the reasons for their continuing denial of the petition.

Vote: Two for the motion, one opposed.

Case # 140-79 Gaylord Bird, American Silversmith, Sign Permit

McComas: Motion: I move to approve.

Eastman: 2nd Motion.

Vote: Unanimous.

NEW BUSINESS:

Case # 149-79 Modesto Guerra, Occupational License

McComas: Motion: I move the approval of Case # 149-79.

Eastman: 2nd Motion.

Vote: Unanimous.

Case # 150-79 Remigio Varela, Building Permit

McComas: Motion: I move the approval of Case 150-79.

Eastman: 2nd Motion.

Vote: Unanimous.

DISCUSSION: There seems no reason to delay the issuance of a permit for Mr. Varela.

Case # 151-79 Gaylord Bird, Occupational License

Weeks: Motion: I move the approval of Case # 151-79, Occupational License for "El Paso Boots West Co."

McComas: 2nd Motion.

Vote: Unanimous.

Case # 152-79 Leonardo Soltero, Building Permit

Weeks: Motion: I move the approval of Case # 152-79.

McComas: 2nd Motion.

Vote: Unanimous.

Case # 153-79 E.J. Hans, Building Permit

DISCUSSION: Addition to an existing house. Capri Arc area. Zone R-F.

BOARD OF TRUSTEES REGULAR MEETING  
January 14, 1980

MAYOR: Mary Frances Leslie

TRUSTEES:

Salomon Perez  
Wesley Dixon  
Angel Carreon  
Paul Taylor

TOWN CLERK:

Barbara A. Brown

OTHERS:

Cruz Alvarez  
Ben Michael Alvarez  
Glen Newmeyer  
Ben Alvarez  
Albert Engel  
Leroy Lozier  
Roy Foreman  
Alleene Foreman  
Greg Giordano  
Ramona Duran  
E.L. Fresquez  
Juan S. Padilla  
Armida Padilla  
R.V. Fresquez  
Richard Fresquez  
Ralph Lucero  
Larry W. Leslie  
Esther Lucero  
Bill Finch  
Cipriano Gonzales  
Paul Griego  
Patrick Taylor  
Wendy Taylor

John Lopez Jr.  
Aurelio Beltran  
Wayne Joyner  
Mary Sanders  
W.D. Sanders  
Jimmy Harris  
Edward Southworth  
I.L. Bustamantes  
William L. Reitmeyer  
Owen Weeks  
Kathleen Eastman  
Henry Rader  
Paul Rader  
John Jozwik  
N. Clayshulte  
Gloria Clayshulte  
A.M. Wierenga  
Eloisa Gonzales  
Delphina Griego  
Jamie Cano  
Erik Ness  
Joe Smith  
Mary Wormley

The Honorable Mary Frances Leslie opened the meeting.

Perez: I was just informed that the minutes for the September 26, and November 14 meetings, that we felt were incomplete and according to the Town Clerk are correct, I would have to listen to the tape of the closed personnel minutes. I also want the November 14 opinions by the Town Clerk removed.

Mayor: The minutes of September 26 were never tabled. I took those minutes off the agenda because I had not completed reviewing them.

Perez: Motion: I move the September 26 minutes be tabled until they are reviewed for correctness.

Carreon: 2nd Motion.

Vote: Carreon, Dixon, Perez, yes. Taylor, abstain.

Perez: Motion: I move the minutes of November 14, 1979 be tabled until all opinions by the Town Clerk are omitted.

Carreon: 2nd Motion.

Vote: Carreon, Perez, Dixon, yes. Taylor, no.

Carreon: Motion: I move the approval of the December 10, 1979 minutes.  
Perez: 2nd Motion.  
Vote: Carreon, Dixon Perez, yes. Taylor, abstain.

Carreon: Motion: I move the approval of the December 17 minutes.  
Dixon: 2nd Motion.  
Vote: Unanimous.

Taylor: Motion: I move the approval of the minutes of December 27.  
Perez: 2nd Motion.  
Vote: Perez, Taylor, yes. Dixon, Carreon, abstain.

Carreon: Motion: I move the approval of January 7, 1980, minutes.  
Perez: 2nd Motion.

Mayor: Correction, detracton instead of distraction on page 3, paragraph 1.

Paul Rader: Did the Chair decide what that meeting was about? It did not pertain directly to the Lozier Case?

Mayor: No, Sir.

Vote: Carreon, Perez, yes. Dixon, Taylor, abstain.

OLD BUSINESS:

ALVAREZ APPEAL

Planning & Zoning and Historical Appropriateness Committee refers case back to the Board of Trustees. See minutes of December 18, 1979.

Town Clerk read minutes of December 18, 1979 of the Planning & Zoning Commission.

Carreon: Motion: I move the approval of Case 82-79.  
Dixon: 2nd Motion.

Discussion followed in which Mr. Rader and Mr. Southworth questioned whether the Board could vote on the issue when the minutes of that Public Hearing were tabled. Mr. Carreon did not want public input at this point, but Mayor Leslie informed him that as an elected official he had a constitutional right to hear the people. Mr. Taylor also stated he felt that if the minutes were tabled it was not just a portion of the minutes but the entire minutes. Mr. Southworth commented he felt the Board was making an irreversable decision.

Rader: Carreon made the motion, Dixon 2nd it, Perez who called for the question. Not only irresponsible attitude, but I think we are witnessing an indecent action by elected officials.

Vote: Carreon, Dixon, Perez, yes. Taylor, no.

Mayor: 3/4 of the members are supposed vote in order to pass this and 3/4 have voted, so it has passed.

FRESQUEZ, FRESQUEZ, PADILLA APPEAL

Planning & Zoning and Historical Appropriateness Committee refers case back to the Board of Trustees. See minutes of December 18, 1979.

Mayor Leslie asked that Mr. Perez read his statement of disclosure.  
Mr. Perez asked the Town Clerk to read it.

Town Clerk read Mr. Perez statement of disclosure.  
Mayor Leslie asked Mr. Perez if he wished to disqualify himself.

Perez: No, I do not.

Mayor Leslie then asked the Board members to vote on whether Mr. Perez should be disqualified. Mr. Carreon felt Mr. Perez did not have any interest in the case.

Taylor: I really think that we should make a determination, therefore, I move to table the motion by Mr. Carreon until the members decide whether Mr. Perez should or should not vote on the issue.

Carreon: 2nd Motion.

Vote: Carreon, Dixon, Taylor, yes. Perez, abstain.

A motion was made by Mr. Taylor on whether Mr. Perez should be allowed to vote, but no second was made. Motion died for lack of second.

Carreon: Motion: I move to take it off the table.

Perez: 2nd Motion.

Vote: Unanimous.

Carreon: Motion: I move the approval of Case #103, 104, 105, Fresquez, Fresquez, Padilla.

Dixon: 2nd Motion.

Paul Rader asked the Board to consider a covenant on the land to insure that the property would only be handed down to family members. He felt the Board would be setting a precedent if they did not restrict the use.

Mayor Leslie: It seems ridiculous and foolish to have questions on the ballot for rezoning when the board is voting on them now. Mr. Dixon would you please clarify?

Dixon: Doesn't have anything to do with this case. I call for the question.

Mr. Jozwik: Stated he wanted to bring up the point of bias. On the Fresquez property they were not in compliance with Section 11-5 according to the tax rolls. Stated that Mr. Perez did not disclose himself prior to the voting on this case and asked Mr. Perez to answer and why as a Trustee he has not followed the Mesilla Zoning Ordinance.

Perez: I don't care to answer that question.

Mrs. Foreman: Mr. Perez was elected by the majority of the people of Mesilla. If he chooses to use his discretion, then he should.

Taylor: I think it is unfortunate that all these cases come to the Board of Trustees. It appears to me that it is an effort to spot zone. That is the privilege of the people who brought it before the Board.

Mr. Taylor felt that the community was being split and that in this case there would be doubt that a person on the board voted on something that he was involved in.

Cruz Alvarez: Stated that the people should be allowed to do what they want with their land, not to have the new comers telling the Mexican native what to do.

Mayor Leslie: I would like to make a statement in reply to what you just stated. You are absolutely correct, it is to bring us together, it should be that way. However, let me quote this, I feel that the Board of Trustees are not being flexible with all the majority of the community. I think that if they have done it, if they could have done it the way the Planning & Zoning had proposed from the very beginning and at that time the majority were hispanic and did speak Spanish, Mr. Alvarez. Not only that, that's when you would have united, we could have been flexible and would have been contented. But you know what has happened since then. We have split just like that isle right there. The people have gone hispanic and other people have gone all gabacho. So that is where it should have been at the very beginning, but it is not there and won't be until the Board of Trustees do get together and try to help the majority of the Mesilleros and let's face it, they are Mesilleros whether they come from Timbukto. They are from Mesilla and they do have the right to speak. They do have the right to be acknowledged by the governing body. We don't know who voted for us. I don't think anybody knows except each individual one. I can't say you and you and you voted for me. We were elected sure by the majority, otherwise we wouldn't be here.

Mr. Southworth stated he was disillusioned as the Trustees have overlooked public input and felt it showed arrogance.

Mrs. Foreman felt that the Board was compelled to act on an application.

Mr. Rader again asked the Board to consider restrictive covenants.

Carreon: I think that I would like to see covenants on the Alvarez as far as the architecture but in the Fresquez case it should be up to them.

Albert Engel, representing the Alvarez: Stated that his client had always stated that he was in favor of having restrictive covenants to keep the property historical.

Mayor Leslie: Mr. Engel, I would like to correct you on that statement, because Mr. Cruz Alvarez and Mr. Ben Alvarez were asked time and time again if they would go with covenants and to clarify this architectural motif and it was stated time and time again that they were not willing to budge. Therefore, I am rebutting it now. If Mr. Cruz Alvarez has decided to go with that idea, then I would like to hear from him.

Cruz Alvarez stated: "you are looking at the history of Mesilla." He went on to say how he loved Mesilla, but made no statement as regards to covenants.

Glen Newmeyer: I would like to correct the record because I have been present at these meetings with Mr. Engel and at all times with the Zoning Board and with this Board we have always said that if any arrangement could be made that would be legally sustainable that they would agree to the Town Board to have that restriction just as Mr. Taylor pointed out as being desirable. The issue had been that the original procedure was filed for zoning in order to modify that for Historical Zoning, we would have had to go back for republication and the procedure starting over. We threw the ball to the commission and to the Zoning Board to give us some alternatives as to how you might approach it. We could not do otherwise because for Mr. Alvarez to do other than what he did we would have had to abandon the petition. But if this Board had so sought to place a restriction on the commercial, we would like to see it commercial zoning if it would conform to this sort of review commission. You have the right to do so. There has never been any issue with this.

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Mayor: It was addressed by the Planning and Zoning, I already stated that.

Vote: Carreon, Perez, Dixon, yes. Taylor, no.

Motion carries.

Taylor: My reason for voting no is regarding the conditions in this case rather than the questions of descendents receiving the property of their parents as I firmly believe that descendents should receive the property of their parents. But the other conditions of the case are such that I could not vote for it.

Mayor Leslie asked if there were any further comments.

Taylor: I would just like to state that I will remember the condition that Mr. Engel stated and I think that we can just expect that there would be concern for the Historical integrity.

CASES UP FOR APPROVAL:

CASE # 140-79 American Silversmith, Sign Permit

Dixon: Motion: I move the approval of Case # 140-79.  
Perez: 2nd Motion.  
Vote: Unanimous.

CASE # 149-79 Modesto Guerra, Occupational License

Taylor: Motion: I move the approval of Case # 149-79.  
Dixon: 2nd Motion.  
Vote: Unanimous.

CASE # 150-79 Remigio Varela, Building Permit

Carreon: Motion: I move the approval of Case # 150-79.  
Perez: 2nd Motion.  
Vote: Unanimous.

CASE # 151-79 Gaylord Bird, Occupational License

Taylor: Motion: I move the approval of Case # 151-79.  
Carreon: 2nd Motion.  
Vote: Unanimous.

CASE # 152-79 Leonardo Soltero, Building Permit

Taylor: Motion: I move the approval of Case # 152-79.  
Perez: 2nd Motion.  
Vote: Unanimous.

CASE # 153-79 E.J. Hans, Building Permit

Dixon: Motion: I move the approval of Case # 153-79.  
Taylor: 2nd Motion.  
Vote: Unanimous.

CASE # 154-79 Jose Terrazas, Building Permit

Taylor: Motion: I move ~~the~~ approval of Case # 154-79.  
Carreon: 2nd Motion.  
Vote: Unanimous.

CASE # 155-79 El Platero, Sign Permit

Perez: Motion: I move the approval of Case # 155-79.  
Dixon: 2nd Motion.  
Vote: Carreon, Dixon, Perez, yes. Taylor, abstain.

CASE # 1-80 Roy Foreman, Building Permit

Dixon: Motion: I move to approve Case # 1-80.  
Perez: 2nd Motion.  
Vote: Unanimous.

Jozwik: Since the Board of Trustees set a precedent in permitting Attorney Newmeyer to discuss the Fannie Alvarez case after the passage of the Fannie Alvarez Resolution, my presentation in reviving the Foreman Oil Commercial Zoning case was not out of order. Further, since the public input was denied by the precipitous action of the Board of Trustees on the Trustee Carreon motion on November 15, 1979, I felt that this was my prerogative to take advantage of the opportunity. "During the November 15, 1979 meeting, Case # 89-79, Skip Foreman, rezoning application, the Carreon Resolution did not grant the applicant, Skip Foreman, the Commercial Zoning for Foreman Oil Company as requested. It was Kathleen Foreman who wanted an amendment to the Planning & Zoning and Historical Appropriateness Committee resolution, (Skip Foreman request) by adding provisions of Section 11, 11-6-1 & 2 & Paragraph A & B to the Skip Foreman request. (As presented by Trustee S. Perez). Mr. Carreon's Motion. (From minutes): "I move that Case #89-79 as requested by Kathleen Foreman: It was to have been the Skip Foreman application and not Kathleen Foreman amended version that should have been voted upon. Therefore, due to this erroneous motion, the Foreman Oil Company is not properly included in a Commercial Zone and therefore cannot build anything included in Section 11-6 C-2 (Uses Permitted) Structures".

Mayor Leslie informed Mr. Jozwik that the application for building permit was on the Foreman house, not the business.

NEW BUSINESS:

PROPOSED ZONING ORDINANCE CHANGE

Addition of Gasoline Dispensing to Permitted Uses. Motion required.

Perez: Motion: I make a motion that we add to the list of permitted uses under 11-6 of the Mesilla Ordinance, be amended to add gasoline stations and gas dispensing.  
Dixon: 2nd Motion.

Mr. Jozwik commented that the newspaper advertisement was incorrect as it listed the Section as 11-C-2.

Vote: Carreon, Dixon, Perez, yes. Taylor, no.

VFW

Request from Mr. Gonzales to use the Community Center for meetings.

Cipriano Gonzales introduced the members of Foreign Wars: John Lopez, Wayne Joyner, Aurelio Beltran, Tony Martinez, Jimmie Jaramillo, Paul Griego. He further stated that they wished to rent or have the Town lend them a meeting room. However, they did not know what night or time. They also wanted a room for the Ladies Auxiliary.

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TOWN OF MESILLA

SPECIAL MEETING . . . . . FEBRUARY 15, 1972

A special meeting was called between the Planning and Zoning Commission and the Board of Trustees before Public Hearing to be held at 7:30 to discuss whether there were any additions or deletions on Proposed Zoning Ordinance.

Planning and Zoning Members present were Mr. Ken Allin, Mr. John Clayshulte, Mr. Ernest Camunez, Mr. Manuel Cadena.

Board Members present were Mayor Clayshulte, Trustee Robert Frietze.

Others present were Mr. Jose Luis Yguado, Mr. Nick Frietze, and Mrs. Mary DeLeon.

Discussion on whether the Board members or the Planning and Zoning Commission had any comments on the Proposed Zoning Ordinance.

Mayor suggested that a sample copies of Certificate of Appropriateness and other permits be furnished. Mr. Yguado stated that all the necessary permits and certificates would be furnished by them.

Mr. Yguado stated public hearing should be conducted by the Planning and Zoning Commission.

Mr. Manuel Cadena asked in regard to trailer houses in Mesilla.

Mr. Yguado stated that Section 5-13, and 5-14 under none conforming would cover this.

Mayor suggested that an index be included in proposed Ordinance.

Mr. Yguado stated that aerial photos should be taken, and that they should be dated for future references.

Mayor suggested that after the public hearing we meet and make any changes needed, then we could adopted Ordinance.

Mr. Camunez asked in regards to signs.

Mr. Yguado stated that any signs or improvements had to be reviewed by the historical Review Board.

RESPECTFULLY SUBMITTED



NICK FRIETZE  
TOWN CLERK

SEAL

ATTEST:

  
MAYOR

DISCUSSIONS HELD AT THE PUBLIC HEARING ON FEBRUARY 15, 1972 TO DISCUSS  
PROPOSED ZONING ORDINANCE ARE AS FOLLOWS.

MEETING WAS CALLED TO ORDER BY MR. KEN ALLIN AT 7:35 P.M.

Planning and Zoning Members present were Mr. Ken Allin, Mr. Manuel Cadena,  
Mr. John Clayshulte.

Others present were Mr. Nick Frietze, Mrs. Mary DeLeon, Mr. Jose Luis Yguado,  
Mr. Albert B. Armijo, Mr. Cruz R. Alvares, Mrs. Magaret L. Pena, Mr. Jay Weir,  
Mr. B. Charles Hall, Mrs. Edna Stewart, Mrs. Ruth E. Hahn, Mr. & Mrs. Hector  
Lopez, Mr. Benjamin D. Lopez, Mr. J. Paul Taylor, Mr. Raymond L. Cano, Mr. Roy  
Foreman, Mrs. Josephine G. Emerson, Mr. Modesto Ogaz Guerra, Mr. George  
Spedlialieri, Mr. Arsario P. Garcia, Mr. Cheno P. Garcia, Mr. Robert L. Frietze,  
Mr. V. Gallegos, Mr. Miguel G. Estrada, Mr. Reed, Alden B. Gandy, Mr. Wm. I.  
Reitmeyer, Mr. H. H. Cobrun, Mr. Ernest L. Camunez, Mrs. Pioquinta Apodaca,  
Mrs. Lorenzo Rede, Mr. George V. Gallegos, Mr. Henry DeLeon, Mrs. Theodora  
A. Thomson, M. C. "Tommy Tomson, Mr. & Mrs. Raul Pena, Mr. Gregorio P. Aranda,  
Mr. Isaac Duran, Mr. & Mrs. Felipe P. Garcia, Mr. Derk Charles Lindeen, Mr. Sam  
Munoz, Mr. Dalton, Mr. & Mrs. Manuel Cano. Doctor Shaffer.

Mr. Ken Allin explained the circumstances behind this Ordinance.

Our decision to draw up this ordinance was for the protection of Mesilla and  
all its citizens. Since we ourselves felt that we could not draw up such an  
ordinance we have hired Yguado and Associates, who's job is to draw up  
ordinances.

Mr. Ken Allin called on Mr. Yguado to explained the contents of the Proposed  
Ordinance.

Mr. Yguado stated that we have drawn up this ordinance with what is existed  
here in Mesilla, such as the historical aspects, the land,  
and its future growth.

For this we have designated such districts as historical districts in this  
district there is no specific lot size, also in this district any changes or  
additions will be presented to the historical Review Board.

All other areas we have designated the following:

RF RURAL FARM  
RA RESIDENTIAL AGRICULTRUAL  
R-1 SINGLE FAMILY RESIDENTIAL  
H-R HISTORICAL RESIDENTIAL  
H-C HISTORICAL COMMERCIAL  
C GENERAL COMMERCIAL  
PC PLANNED COMMUNITY ZONE.

Doctor Shaffer aksed whether this Ordinance was the same one that had drawn so  
much cantroversey four years ago, and that he understands that pressure had  
been placed on the Town.

Mr. Clayshulte stated that the State could draw up our Zoning Ordinance, but  
we wanted to do this ourselves for the reason that we want to keep Mesilla  
as it is.

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Doctor Shaffer pointed out that the minimum lot size is five acres, which sounds ridiculous.

Mr. Ken Allin pointed out that this plan was drawn up with what is presently in existence.

Mr. Guerra asked whether there were any restrictions, for instance if he wanted to keep an old car on his yard, would this be restricted.

Mr. Cruz Alvarez asked what was the population of Mesilla and if we wanted to keep the population down in Mesilla.

Mr. Ken Allin stated we want to keep the population down as to the size of population Mesilla can hold.

Mr. Manuel Cano pointed out the reason we incorporated Mesilla, was that we wanted to keep it as it is, and I think we have reated a monster.

Mr. Ken Allin brought to the attention of Mr. Cano this is the reason we have drawn up this Ordinance, which indicates the present use of the land in Mesilla and it allows for development.

Mr. Ken Allin also stated that our purpose for this Public Hearing is that we try to hear the opinons on this Ordinance and find out if this will help to protect the Town of Mesilla.

Mr. Tommy Tomson asked to protect against what.

Mr. Ken Allin pointed out that some land is presently being develope and subdivisions for approval have been presented to the Board. If this subdivision were to come in people from this subdivisions will make more demands on the Town.

Mrs. Gandy asked whether there were any zoning regulations now in Mesilla.

Mr. Ken Allin stated that at the present time, no only in the historic area.

Mrs. Gandy stated that this to her represented alot of good work.

Mrs. Tomson asked if we do not draw up this Ordinance would the state do this for the Town.

Mr. Ray Cano pointed out that Mesilla has been incorporated as his brother had stated earlier, but it is a fact that LasCruces can zone five miles around the boundaries of Mesilla. If we want to live in this society we must accept restrictions and regulations placed on us.

Mr. Cruz Alvarez stated that he was for keeping the historical vitures around the plaza, but other areas such as highway 28 and 292, people are coming in and wanting to build in these sections.

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Mr. Ken Allin stated that we have made provisions for changes along this lines.

Mrs. Margaret Pena asked how this Proposed Ordinance had come about.

Mr. Ken Allin stated that the Town felt that we needed a good Zoning Ordinance.

Mr. Yguado pointed out that the Planning and Zoning Commission were presenting this Proposed Zoning Ordinance for their opionions on it. Mr. Yguado also stated that you could ask for a zone change and submitted to the Board for their approval.

Mrs. Margaret Pena stated that we must think positive and this Ordinance would be a good starting point.

Mrs. Edna Stewart stated that she is part owner of an estate south of Mesilla, which is still in probate court. I wish to sell this land, but this Proposed Zoning Ordinance is not going to be beneficiary to us. since we are in the RF section the minimum lot size being 5 acres.

Mrs. Ruth Hahn stated that she was the land owner of a property on University Avenue and Highway 28, and I was thinking of selling this property. We were interested in building a dental office, and a church, could this be permittted under this Proposed Zoning Ordinance.

Mr. Yguado stated that this is why we have made provisions in this Ordinance, so that changes could be made later on.

Mr. H. H. Coburn stated that he was pleased when Mesilla was incorporated and I like the way of life I have enjoyed here in Mesilla. I'am sure that this ordinance can be changed as changes will occur.

Mr. Dalton pointed out that if we are going to have progress and advance the Town of Mesilla that changes msut be made.

Mrs. Edna Lopez asked whether the people in Mesilla ahd to change their way of life in order to conform to the Zoning area.

Mr. Ken Allin stated it is not the intention of the Planning & Zoning Commission to change peoples way of live, but to protect it, so they may continue their lives as they have for years.

Mr. example if someone built a Cape Cod Cottage right next to your adobe house it would not fit, this is what we are trying to bring out in this Ordinance.

Mrs. Edna Lopez asked whether they could add to their present trailer house.

Mr. Ken Allin stated that Trailer house camed under non-conforming and you could not add to a none-conforming structure.

Mr. Raul Pena stated that he owns two houses which are in the H-C Zone, and is in the process of remodeling these homes, Mr. Pena's question was whether he had to remodel them according to the zone which he is in.

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Mr. Ken Allin stated that at this time he could not give him a definite answer, he would have to present this plans to the Historical Review Board.

Mrs. Josephine Emerson asked whehter this Ordinance restricted people from having outside privies.

Mr. Ken Allin stated that this would be up to the Health Department

THERE BEING NO FURTHER BUSINESS TO DISCUSS THE MEETING ADJOURNED AT 9:30 P.M.

Respectfully submitted



Nick Frietze  
Town Clerk

SPECIAL MEETING

PLANNING & ZONING COMMISSION . . . . . FEBRUARY 15, 1972

Planning & Zoning Commission members meet after public hearing held at 7:30 p.m. to comment on Zoning Ordinance for the Town of Mesilla.

Planning and Zoning Commission members present were Mr. Ken Allin, Mr. Ernest Camunez, Mr. John Clayshulte.

Other present were Mr. Nelson Clayshulte, Mr. Nick Frietze, Mrs. Jose Luis Yguado, Mr. Robert Frietze, Mrs. Cookie Growcock, and Mrs. Mary DeLeon.

After some discussion on the public hearing, It was moved by Mr. Camunez to adopt future Land Use Plan Map. Seconded by Mr. John Clayshulte, Motion carried. unanimously.

Proposed Zoning Ordinance was discussed. After some discussion Mr. Camunez moved to adopt Zoning Ordinance as modified. Seconded by Mr. John Clayshulte, Motion carried unanimously.

After some discusson on Proposed Subdivision Regulations, it was moved by Mr. Camunez to adopt subdivison Regulations. Seconded by Mr. John Clayshulte. Motion carried unanimously.

It was suggested by the Mayor that since there was no quorum for the Board of Trustees that a meeting be held on the 16th of February to adopt Zoning Ordinances for the Town of Mesilla.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE MEETING, MEETING ADJOURNED AT 10:10 P.M.

Respectfully submitted

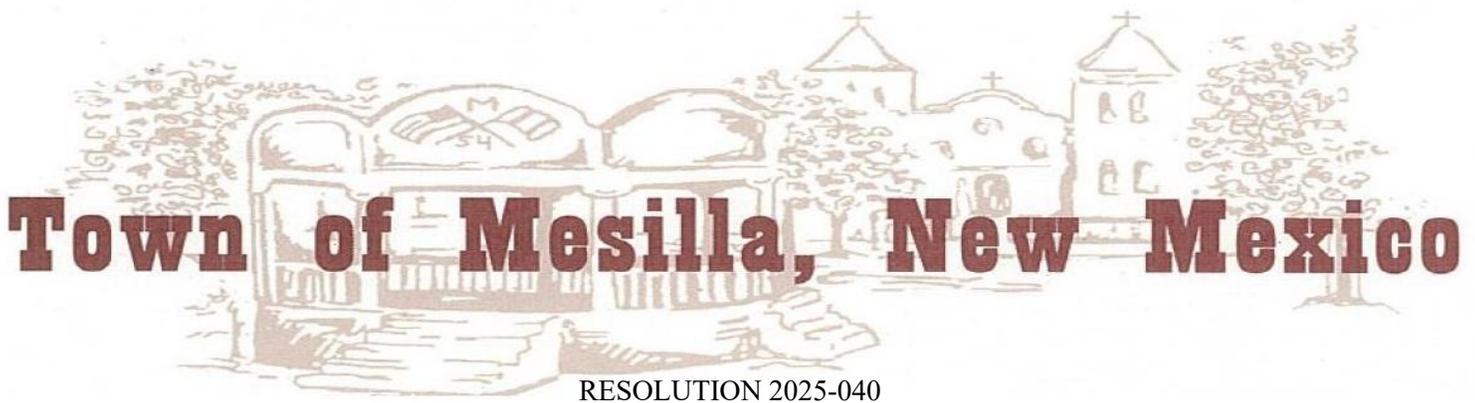


Nick Frietze  
Town Clerk

SEAL

ATTEST:

  
MAYOR



**A RECOMMENDATION TO THE BOARD OF TRUSTEES A RESOLUTION BY THE PLANNING AND ZONING HISTORICAL APPROPRIATENESS COMMISSION, ESTABLISHING STANDARD PRACTICES FOR DETERMINING APPROPRIATE AND PRACTICAL MODIFICATIONS OF REQUIRED FRONT, SIDE, AND REAR YARD DEPTHS OR WIDTHS IN ALL ZONING DISTRICTS OF THE TOWN OF MESILLA WHEN THE GEOMETRIC SHAPE, DIMENSIONS, OR TOPOGRAPHY OF A LOT MAKES THE LITERAL APPLICATION OF SETBACK REQUIREMENTS IMPRACTICAL; PROVIDING DEFINITIONS, CRITERIA, AND PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Title 18 (Zoning) of the Mesilla Town Code establishes minimum front, side, and rear yard setback requirements for all zoning districts to protect neighborhood character, public health, safety, and welfare; and

WHEREAS, the Planning and Zoning Historical Appropriateness Commission (PZHAC) recognizes that certain lots within the Town possess irregular geometric shapes, constrained dimensions, or significant topographic variations that can render strict compliance with prescribed setbacks impractical or create an unnecessary hardship; and

WHEREAS, Section 3-21-1 NMSA 1978 authorizes municipalities to adopt zoning regulations and procedures that encourage the most appropriate use of land while preserving property rights and community values; and

WHEREAS, the PZHAC finds it in the public interest to establish uniform standards and a transparent, predictable process for evaluating and approving reasonable modifications to required setbacks when warranted by unique lot conditions (MTC 18.60.300);

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF MESILLA, NEW MEXICO:

**Section 1. Purpose and Intent.** This Resolution establishes the criteria, thresholds, and procedural steps by which the Zoning Administrator, Planning and Zoning Commission may authorize a reduction or realignment of required front, side, or rear yard dimensions when the literal application of Title 18 setback standards is impractical due to the geometric shape, constrained dimensions, or topography of a lot. It is the intent of this Resolution to balance flexibility for individual property owners with the community's interest in adequate light, air, privacy, fire separation, and consistent neighborhood character.

**Section 2. Definitions.** For the purposes of this Resolution:

1. **Adjusted Setback** means a front, side, or rear yard depth or width that has been modified in accordance with this Resolution.

2. **Irregular Lot** means a parcel whose shape is other than rectangular, possesses more than four sides, or has a width at the required front setback line that is less than 80 percent of the minimum lot width prescribed by the underlying zoning district.

3. **Constrained Dimensions** means a lot depth, width, or area that—due to pre-existing rights-of-way dedications, utility easements, or other legally established encumbrances—cannot reasonably accommodate a building envelope that meets all required setbacks.

4. **Topographic Lot** means a parcel with a slope of 15 percent or greater over more than 25 percent of its developable area or that contains significant natural features (e.g., arroyos, acequias, escarpments) that limit the buildable envelope.

**Section 3. Eligibility for Modification.** A property owner may request a setback modification when the lot is (a) irregular, (b) dimensionally constrained, or (c) topographic, or (d) any front yard requirement is met when the depth of the front yard at least equals the average of that established by front yards of existing buildings within the same block or zone. and compliance with Title 18 setback requirements would either:

- Prevent any reasonable location of a structure permitted by the zone; or
- Result in building placement that is inconsistent with the prevailing pattern of development on adjacent lots; or
- Cause grading or site disturbance significantly greater than would occur under a modified setback.

**Section 4. Evaluation Criteria.** All reviewing bodies shall base their decision on written findings addressing the following criteria:

1. The requested adjustment is the *minimum* necessary to afford relief.
2. Strict compliance would deprive the property of development rights enjoyed by other lots in the same district.
3. The need for modification is created by the lot's shape, dimensions, or topography and *not* by the applicant's own actions.
4. The modified setback will not reduce fire-safety separations below those required by the currently adopted International Residential/Building Codes.
5. The adjustment will not interfere with public or private easements, sight-distance triangles, or drainage facilities.

**Section 5. Conditions of Approval.** The reviewing body may impose reasonable conditions—including but not limited to drainage improvements, additional landscaping, or building height limits—to ensure compliance with this Resolution and mitigate potential off-site impacts.

**Section 6. Appeals.** Administrative Adjustments by the Planning & Zoning Historical Appropriateness Commission may be appealed within 10 calendar days to the Board of Trustees pursuant to MTC 18.06.160.

**Section 7. Recording, Expiration, and Revocation.** An approved setback modification shall be recorded and shall run with the land. If a building permit is not issued within 12 months or 6 month extension of approval, the modification shall expire. Non-compliance with conditions of approval is grounds for revocation following notice and hearing.

**Section 9. Severability.** If any provision of this Resolution is held invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remaining provisions.

**Section 10. Effective Date.** This Resolution shall become effective immediately upon adoption and shall apply to all complete applications received on or after that date.

**PASSED, ADOPTED, AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2025.**

Russell Hernandez

\_\_\_\_\_  
Mayor

**ATTEST:**

Gloria Maya

\_\_\_\_\_  
Town Clerk



# Town of Mesilla, New Mexico

## ELECTION RESOLUTION Town of Mesilla

### Resolution No. 2025-41

#### A RESOLUTION BY THE BOARD OF TRUSTEES FOR REGULAR ELECTION FOR MUNICIPAL OFFICERS

- A. A Regular Election for the election of municipal officers shall be held on November 4, 2025. Polls will open at 7:00 A.M. and close at 7:00 P.M.
- B. At the Regular Election, persons shall be elected to fill the following elective offices:
1. ONE **judge** for a four-year term.
  2. ONE **Trustee** for a four-year term.
- ONE **Trustee** for a four-year term.
- C. The following location has been designated as one of the polling places for the conduct of the regular municipal election:

Town Hall  
Town of Mesilla  
2321 Ave de Mesilla  
Mesilla, New Mexico

**PASSED, ADOPTED AND APPROVED THE 23 OF JUNE, 2025.**

**ATTEST:**

\_\_\_\_\_  
Russell Hernandez  
Mayor

\_\_\_\_\_  
Gloria S. Maya  
Town Clerk-Treasurer

**Town of Mesilla**  
Amended Ordinance Draft April 23, 2025  
Trustee Nevarez  
Chapter 18.54  
**WIRELESS TELECOMMUNICATIONS FACILITIES**

LEGEND:     **Black** – existing Town of Mesilla ordinance (about 20 years old)  
              **Red** - existing Town of Mesilla ordinance edits by committee  
              **Green** – PZHAC edits  
              **Blue** – new copy adapted from Langley Washington (2021-23)

**Sections:**

18.54.010	Authority and purpose.
18.54.020	Definitions.
18.54.030	Applicability and exemptions.
18.54.040	General standards and construction provisions.
18.54.050	Co-location.
18.54.060	Heights, placement provisions and setbacks.
18.54.070	Special use permits.
18.54.080	Buildings or other equipment storage.
18.54.090	Application review and inspection fee.
18.54.100	Performance security bond.
18.54.110	Liability insurance.
18.54.120	Indemnification.
18.54.130	Removal of a wireless telecommunications facility.
18.54.140	Required annual report.
18.54.150	Provision for waiver or variance.
18.54.160	Penalty.
18.54.170	Default and/or revocation.
18.54.180	Eleventh hour submissions.
18.54.190	Prohibition against illegally excessive emissions and Radio Frequency (RF) radiation testing.
18.54.200	Factual determinations to be rendered by the Town of Mesilla.
18.54.210	General Provisions.
18.54.220	Shot Clock Periods.
18.54.230	Shot Clock tolls, extensions and reasonable delay periods.

**18.54.010 Authority and Purpose.**

This chapter is intended to repeal and replace all previous versions of, and amendments to, Chapter 18.54, Wireless Telecommunications Facilities, of the Municipal Code of the Town of

Mesilla (“Municipal Code”), all of which is hereby repealed and replaced in its entirety by this chapter et seq., as of the effective date of the ordinance codified in this chapter.

No Personal Wireless Service Facility (PWSF) shall be sited, constructed, reconstructed, installed, materially changed or altered, expanded, or used unless in conformity with this chapter.

For the installation, construction, erection, relocation, substantial expansion, or material alteration of any PWSF, the town shall require a special use permit pursuant to the provisions of this section, which shall be applied for in accord with the procedure set forth within Chapter 18.85 - Variances and special use permit, unless otherwise provided herein.

The performance of maintenance, routine maintenance, in-kind replacement of components, and/or repairs (as defined herein) to an existing PWSF and/or existing personal wireless service equipment shall not require a special use permit.

Each application for a special use permit under this chapter and each individual PWSF for which an application for a special use permit is submitted shall be considered based upon the individual characteristics of each respective installation at each proposed location as an individual case. In other words, each installation, at each proposed location, shall be reviewed and considered independently for its own characteristics and potential impacts, irrespective of whether the proposed facility is designed and intended to operate independently or whether the installation is designed and/or intended to operate jointly as part of a distributed antenna (DAS) system.

A. Authority. The comprehensive land use ordinance is amended pursuant to the enabling provisions of Section 3-21-1 through 3-21-14, NMSA 1978, as amended.

B. Purpose **and legislative intent**. The purpose of this chapter is to establish regulations and general guidelines for the siting of wireless telecommunications facilities (WTFs), **that promote the health, safety, and general welfare of the residents of the Town of Mesilla and to preserve the scenic, historical, natural, and manmade character and appearance of the town, while simultaneously providing standards for the safe provision, monitoring, and removal of cell towers and other PWSF consistent with applicable federal, state and local laws and regulations.**

The town seeks to minimize, to the greatest extent possible, any unnecessary adverse impacts caused by the siting, placement, physical size, and/or unnecessary proliferation of, personal wireless service facilities, including, but not limited to, adverse aesthetic impacts, adverse impacts upon property values, adverse impacts upon the character of any surrounding properties and communities, adverse impacts upon historical and/or scenic properties and districts, and the exposure of persons and property to potential dangers such as structural failures, ice fall, debris fall, and fire.

The town also seeks to ensure that, in applying this chapter, the Town of Mesilla is vested with sufficient authority to require applicants to provide sufficient, accurate, and truthful probative evidence, to enable the Town of Mesilla to render factual determinations consistent with both the provisions set forth herein below and the requirements of the Federal Telecommunications Act of 1996 (TCA) when rendering decisions upon such applications.

To achieve the objectives stated herein, the town seeks to employ the “general authority” preserved to it under 47 U.S.C. § 332(c)(7)(A) of the TCA to the greatest extent which the United States Congress intended to preserve those powers to the town, while simultaneously complying with each of the substantive and procedural requirements set forth within the subsections of 47 U.S.C. § 332(c)(7)(B) of the TCA.

C. The goals of this chapter are to:

1. Protect residential areas and land uses from potential adverse impact of WTFs;
2. Minimize the total number of towers in the community; **give preference to newest and least intrusive technologies including but not limited to small cells, fiberoptic cable, and satellites in order to retain historic character of the Town of Mesilla.**
3. **Prioritize** ~~Strongly encourage~~ the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
4. **Require** ~~Encourage~~ s of WTFs to locate them, ~~to the extent possible~~, in areas where the adverse impact on the community is minimal; **All studies are to be at the expense of the users, while the town will identify and approve all independent vendors.**
5. **Require** ~~Encourage~~ users of WTFs to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques **such as artwork; all visual improvements are to be paid for by the WTF users.**
6. Enhance the ability of providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
7. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals and in approving sites for the location of towers and antennas, the town of Mesilla shall give due consideration to Mesilla’s master plan, its zoning map, existing land uses and environmentally and historically sensitive areas, **maintaining the town character and including resident feedback.** [Ord. 2003-10 § 1]

Consistent with the balancing of interests which the United States Congress intended to embed with the TCA, , this chapter is intended to serve as a smart planning provision, designed to achieve the four simultaneous objectives of: (1) enabling personal wireless service providers to provide adequate personal wireless services throughout the town so that town residents can enjoy the benefits of the same, from any FCC-licensed wireless carrier from which they choose to obtain such services, while (2) minimizing the number of cell towers and/or other personal wireless service facilities needed to provide such coverage, (3) preventing, to the greatest extent reasonably practical, any unnecessary adverse impacts upon the town's communities, residential areas, and individual homes, and (4) complying with all of the legal requirements which the TCA imposes upon the town, when the town receives, processes and determines applications seeking approvals for the siting, construction and operation of cell towers and/or other personal wireless service facilities.

#### **18.54.020 Definitions.**

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations, shall have the meaning given in this section. The word "shall" is always mandatory and not merely directory. If, and to the extent that, the definitions set forth herein are inconsistent with any other definitions elsewhere within the Municipal Code, the definitions herein shall supersede any conflicting definitions set forth elsewhere within the Municipal Code, and the definitions set forth herein below shall control and apply to this chapter and all subsections herein.

"Accessory facility" or "accessory structure" means a facility or structure serving or being used in conjunction with a personal wireless services facility or complex and located on the same property or lot as the personal wireless services facility or complex, or an immediately adjacent lot including, but not limited to, utility or transmission equipment storage sheds or cabinets.

"ACHP" means the federal Advisory Council on Historic Preservation.

"Adequate coverage," as determined by the Town of Mesilla in consultation with the town's consulting expert, means that a specific wireless carrier's personal wireless service coverage is such that the vast majority of its customers can successfully use the carrier's personal wireless services the vast majority of the time, in the vast majority of the geographic locations within the town, that the success rate of using their devices exceeds 97 percent (unless building materials such as adobe or metal interfere with signal reception), and that any geographic gaps in a carrier's gaps in personal wireless services are not significant gaps, based upon such factors including, but not limited to, lack of significant physical size of the gap, whether the gap is located upon a lightly traveled or lightly occupied area, whether only a small number of customers are affected by the gap, and/or whether or not the carrier's customers are affected for only limited periods of time. A wireless carrier's coverage shall not be deemed inadequate

simply because the frequency or frequencies at which its customers are using its services are not the most preferred frequency of the wireless carrier.

~~B. "Antenna" means any structure that radiates or receives radio or other communication signals.~~ "Antenna" means an apparatus designed for the purpose of emitting RF radiation, to be operated or operating from a fixed location, for the provision of personal wireless services.

"Applicant" means any individual, corporation, limited liability company, general partnership, limited partnership, estate, trust, joint-stock company, association of two or more persons having a joint common interest, or any other entity submitting an application for a special use permit, site plan approval, variance, building permit, and/or any other related approval, for the installation, operation and/or maintaining of one or more personal wireless services facilities.

"Application" means all necessary and required documentation and evidence that an applicant must submit to receive a special use permit, building permit, or other approval for personal wireless services facilities from the town.

"Cell tower" means a free-standing, guy-wired, or otherwise supported pole, tower, or other structure designed to support or employed to support, equipment and/or antennas used to provide personal wireless services, including, but not limited to, a pole, monopole, slim stick, lattice tower or other types of standing structures.

"CEQ" means the Council on Environmental Quality established under NEPA.

"CFR" means the Code of Federal Regulations.

~~C. "Co-location" means the physical attachment and/or placement of one communication structure upon another communication structure, and may include placing different or similar communication structures on the receiving structure.~~ "Colocation" and/or "co-locate" means to install, mount or add new or additional equipment to be used for the provision of personal wireless services to a pre-existing structure, facility, or complex which is already built and is currently being used to provide personal wireless services, by a different provider of such services, wireless carrier or site developer.

"Complete application," "completed application" means an application that contains all the necessary and required information, records, evidence, reports, and/or data (including number of carrier's subscribers, and drive test maps) necessary to enable an informed decision to be made with respect to an application. Where any information is provided, pursuant to the terms of this chapter and the town planning official or the town's expert or consultant or the Town of Mesilla, determines, based upon information provided, that any additional, further or clarifying information is needed as to one or more aspects, then the application will be deemed

incomplete until that further or clarifying information is provided to the satisfaction of the town planning official, Town of Mesilla or the town's expert or consultant or the Town of Mesilla.

D. "Commercial tower" means a freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive radio frequency signals for the purpose of providing a commercial service to the public. Commercial tower uses include, but are not limited to, cellular communications, paging stations, TV stations, AM and FM radio stations, two-way radio base stations, communication mobile service, common carrier wireless services and communications used for intra-business and inter-business purposes.

"Complex" means the entire site or facility, including all structures and equipment, located at the site.

E. "Communication structure" means any structure, including antennas and satellite service devices, or any other device which is normally used for radio, television, microwave or wireless communications. This shall include any device that is attached to a new or an existing tower, or attached to a building facade or roof or other non-communication structure, and such attachment is made to the facade or roof vertically, horizontally and/or diagonally.

DBM (dBm). DBM stands for decibel milliwatts, which is a concrete measurement of the wireless signal strength of wireless networks. Signal strengths are recorded in negative numbers, and can typically range from approximately -30 dBm to -110 dBm. The closer the number is to zero, the stronger the cell signal.

"Deployment" means the placement, construction, or substantial modification of a personal wireless services facility.

"Distributed antenna system (DAS)" means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides personal wireless service within a geographic area.

"Effective prohibition" means a finding by the Planning, Zoning, and Historical Appropriateness Commission (PZHAC) that, based upon an applicant's submission of sufficient probative, relevant, and sufficiently reliable evidence, and the appropriate weight which the PZHAC deems appropriate to afford same, an applicant has established that an identified wireless carrier does not have adequate coverage as defined hereinabove, but suffers from a significant gap in its personal wireless services within the town and that a proposed installation by that applicant would be the least intrusive means of remedying that gap, such that a denial of the application to install such facility would effectively prohibit the carrier from providing personal wireless services within the town. Any determination of whether an applicant has established, or failed to establish, both the existence of a significant gap and whether its proposed installation is the

least intrusive means of remedying such gap, shall be based upon substantial evidence, as is hereinafter defined.

“Eleventh hour submissions” means an applicant’s submission of new and/or additional materials in support of an application within 72 hours of the expiration of an applicable shot clock (as is hereinafter defined), or at an otherwise unreasonably short period of time before the expiration of the shot clock, making it impracticable for the Town of Mesilla to adequately review and consider such submissions due to their complexity, volume, or other factors, before the expiration of the shot clock.

“EIA” means the Environmental Improvement Act.

“Enure” means to serve to the use, benefit, or advantage of a person or party.

“EPA” means the United States Environmental Protection Agency.

“FAA” means the Federal Aviation Administration, or its duly designated and authorized successor agency.

“Facial mount” means the physical attachment of a communication structure to a building or other noncommunication structure, which does not substantially increase the height of the building or structure. This can include attaching the structure either vertically, horizontally, or diagonally along the structure’s building facade, facades, walls, roofs or other structures.

“Facility” means a set of wireless transmitting and/or receiving equipment, including any associated electronics and electronics shelter or cabinet and generator.

“FCC” means the Federal Communications Commission.

“General population/uncontrolled exposure limits” means the applicable radiofrequency radiation exposure limits set forth within [47 CFR 1.1310\(e\)\(1\)](#), Table 1, Section (ii), made applicable pursuant to [47 CFR 1.1310\(e\)\(3\)](#).

~~G. “Height,” when referring to a tower or other structure, means the distance measured from the lowest adjacent ground level of the parcel of land vertically to the highest point on the tower or other structure, including the base pad and any antenna and whether attached to the ground, the building, or other structure(s).~~ “Height” means, when referring to a tower, personal wireless service facility, or personal wireless service facility structure, the distance measured from the pre-existing grade level to the highest point on the tower, facility, or structure, including, but not limited to, any accessory, fitting, fitment, extension, addition, add-

on, antenna, whip antenna, lightning rod or other types of lightning protection devices attached to the top of the structure.

“Historic structure” means any structure that would meet the definition of a regulated structure as defined in this chapter.

~~H. Historic Resources or Zones.~~ For the purposes of this chapter, a ~~resource or district zone~~ **resource or district zone** is considered historic if it is listed individually or collectively or eligible to be listed in the National Historic Landmark Register, the National Register of Historic Places or the State Register of Cultural Properties or if the resource or ~~district zone~~ **resource or district zone** has been identified by a governmental agency, such as the New Mexico Historic Preservation Division, as having significant value as an historic, cultural or archaeological resource.

“Illegally excessive RF radiation” or “illegally excessive radiation” means RF radiation emissions at levels that exceed the legally permissible limits set forth within 47 CFR 1.1310(e)(1), Table 1, Sections (i) and (ii), as made applicable pursuant to 47 CFR 1.1310(e)(3).

“In-kind replacement” means the replacement of a malfunctioning component(s) with a properly functioning component of substantially the same weight, dimensions, and outward appearance.

“Macrocell” means a cellular base station that typically sends and receives radio signals from large towers and antennas. These include traditionally recognized cell towers, which typically range from 50 to 199 feet in height.

“Maintenance” or “routine maintenance” means plumbing, electrical or mechanical work that may require a building permit but that does not constitute a modification to the personal wireless service facility. It is work necessary to assure that a wireless facility and/or telecommunications structure exists and operates: reliably and in a safe manner, presents no threat to persons or property, and remains compliant with the provisions of this chapter and FCC requirements.

“Municipal code” means the town of Mesilla Municipal Code.

“Necessary” or “necessity” or “need” means what is technologically required for the equipment to function as designed by the manufacturer, and that anything less will result in prohibiting the provision of service as intended and described in the narrative of the application. “Necessary” or “need” does not mean what may be desired, preferred, or the most cost-efficient approach and is not related to an applicant’s specific chosen design standards. Any situation involving a choice between or among alternatives or options is not a need or a necessity.

“NEPA” means the National Environmental Policy Act, [42 U.S.C. § 4321](#) et seq.

“NHPA” means the National Historic Preservation Act, [54 U.S.C. § 300101](#) et seq, and [36 CFR Part 800](#) et seq.

“Node,” “DAS node” means a fixed antenna and related equipment installation that operates as part of a system of spatially separated antennas, all of which are connected through a medium through which they work collectively to provide personal wireless services, as opposed to other types of personal wireless facilities, such as macrocells, which operate independently.

“Notice address” means an address, which is required to be provided by an applicant at the time it submits an application for a special use permit, at which the town, Town of Mesilla and/or town planning official can mail notice, and the mailing of any notice to such address by first-class mail shall constitute sufficient notice to any and all applicants, co-applicants, and/or their attorneys, to satisfy any notice requirements under this chapter, as well as any notice requirements of any other local, state and/or federal law.

“Notice of effective prohibition conditions” means a written notice which is required to be provided to the town at the time of the filing of any application, by all applicants seeking any approval, of any type, for the siting, installation and/or construction of a PWSF, wherein the respective applicant asserts, claims or intends to assert or claim, that a denial of their respective application, by any agent, employee, Town of Mesilla or body of the town, would constitute an “effective prohibition” within the meaning of the TCA, and concomitantly, that a denial of their respective application or request would violate [47 U.S.C. § 332\(c\)\(7\)\(B\)\(i\)\(II\)](#) of the TCA.

“Notice of incompleteness,” “notice of incomplete application” means a written notice, mailed by first class mail, to an applicant seeking an approval for the installation of a PWEF, wherein the sender advises the applicant that its application is either incomplete, the wrong type of application, or is otherwise defective, and setting forth the reason or reasons why the application is incomplete and/or defective.

“Occupational/controlled exposure limits” means the applicable RF radiation exposure limits set forth within [47 CFR 1.1310\(e\)\(1\)](#), Table 1, Section (i), made applicable pursuant to [47 CFR 1.1310\(e\)\(2\)](#).

“Personal wireless service/personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, within the meaning of [47 U.S.C. § 332\(c\)\(7\)\(c\)\(i\)](#), and as defined therein.

I. ~~“Personal (private) tower” means a freestanding vertical structure that may or may not have various attachments thereto, which is intended to radiate and/or receive RF signals for the purpose of radio communications without the intent of commercial service. Personal tower uses include, but are not limited to, television signal reception, amateur radio stations, AM and FM radio signal reception and citizen band (CB) base stations. Personal (private) towers are excluded from the C, H-C and H-R zones.~~

"Personal tower" and "personal wireless service facility" are not the same. A "personal wireless service facility" (PWSF) is a broader term that refers to any facility used for transmitting or receiving personal wireless services, as defined by the Telecommunications Act of 1996. This includes things like cell phone towers, microwave towers, and other structures used for wireless communication. "Personal tower" is a more specific term that might refer to a tower used for personal use, such as a private wind tower or a solar panel installation. The key difference is that PWSFs are part of a broader telecommunications infrastructure, while "personal tower" might be a more localized or individual use.

“Personal wireless service facility,” “personal wireless services facility” or “PWSF” means a facility or facilities used for the provision of personal wireless services, within the meaning of 47 U.S.C. § 332(c)(7)(c)(ii). It means a specific location at which a structure that is designed or intended to be used to house or accommodate antennas or other transmitting or receiving equipment is located. This includes, without limitation, towers of all types and all kinds of support structures, including but not limited to buildings, church steeples, silos, water towers, signs, utility poles, or any other structure that is used or is proposed to be used as a telecommunications structure for the placement, installation and/or attachment of antennas or the functional equivalent of such. It expressly includes all related facilities and equipment such as cabling, radios and other electronic equipment, equipment shelters and enclosures, cabinets, and other structures enabling the complex to provide personal wireless services. Personal (private) towers are ~~excluded~~ **prohibited** from the C, H-C and H-R zones.

“Probative evidence” means evidence which tends to prove facts, and the more a piece of evidence or testimony proves a fact, the greater its probative value, as shall be determined by the PZHAC, as the finder-of-fact in determining whether to grant or deny applications for special use permits under this provision of the Municipal Code.

⌚ “PZHAC” means the planning, zoning and historical appropriateness commission, the body that shall review applications for WTFs and recommend action to the board of trustees, which is the governing body of the town of Mesilla.

“Repairs” means the replacement or repair of any components of a wireless facility or complex where the replacement is substantially identical to the component or components being replaced, or for any matters that involve the normal repair and maintenance of a wireless facility or complex without the addition, removal, or change of any of the physical or visually discernible components or aspects of a wireless facility or complex that will impose new visible intrusions of the facility or complex as originally permitted.

“RF” means radio frequency.

“RF radiation” means radio frequency radiation, that being electromagnetic radiation which is a combination of electric and magnetic fields that move through space as waves, and which can include both non-ionizing radiation and ionizing radiation.

✕ “Satellite service device (SSD)” means any structure used to receive satellite programming services specifically associated with television reception from the transmission of signals from a satellite to a receiver, usually a round “dish” that can vary in size from 18 inches to 10 feet in diameter.

“Section 106 review” means a review under Section 106 of the National Historic Preservation Act.

“Setback” means for purposes of special use permit applications, a setback shall mean the distance between (1) any portion of a personal wireless facility and/or complex, including but not limited to any and all accessory facilities and/or structures, and (2) the exterior line of any parcel of real property or part thereof which is owned by, or leased by, an applicant seeking a special use permit to construct or install a personal wireless facility upon such real property or portion thereof. In the event that an applicant leases only a portion of real property owned by a landlord, the setback shall be measured from the facility to the line of that portion of the real property which is actually leased by the applicant, as opposed to the exterior lot line of the non-leased portion of the property owned by the landlord.

“Shot clock” means the applicable period which is presumed to be a reasonable period within which the town is generally required to issue a final decision upon an application seeking special use permit approval for the installation or substantial modification of a personal wireless services facility or structure, to comply with 47 U.S.C. § 332(c)(7)(B)(ii) of the TCA.

“Site developer” or “site developers” means individuals and/or entities engaged in the business of constructing wireless facilities and wireless facility infrastructure and leasing space and/or town upon, or use of, their facilities and/or infrastructure to wireless carriers. Unlike wireless carriers, site developers generally do not provide personal wireless services to end-use consumers.

“Small cell” means a fixed cellular base station that typically sends and receives radio signals and which are mounted upon poles or support structures at substantially lower elevations than macrocell facilities.

“Small wireless facility (SWF)” means a personal wireless service facility that meets all of the following criteria:

1. The facility does not extend the height of an existing structure to a total cumulative height of more than 50 feet, from ground level to the top of the structure and any equipment affixed thereto;
2. Each antenna associated with the deployment is no more than three cubic feet in volume;
3. All wireless equipment associated with the facility, including any pre-existing equipment and any proposed new equipment, cumulatively total no more than 28 cubic feet in volume;
4. The facility is not located in historic zones or on tribal land; and
5. The facility will not result in human exposure to radiofrequency radiation in excess of the applicable FCC safety standards set forth within Table 1 of 47 CFR 1.1310(E)(1).

“Special use permit” means the official document or permit granted by the Town of Mesilla pursuant to which an applicant is allowed to file for and obtain a building permit to construct and use a personal wireless services facility, personal wireless service equipment, and/or any associated structures and/or equipment which are used to house, or be a part of, any such facility or complex, or to be used to provide personal wireless services.

“State” means the state of New Mexico.

~~A. “Alternative tower structure” means such structures as manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.~~

“Stealth” or “stealth technology” means a design or treatment that minimizes adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and generally in the same area as the requested location of such personal wireless service facilities. This shall mean building the least visually and physically intrusive facility and complex under the facts and circumstances.

“Structure” means a pole, tower, base station, or other building, physical support of any form used for, or to be used for, the provision of personal wireless service.

“Substantial evidence” means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It means less than a preponderance but more than a scintilla of evidence.

“TCA” means the Telecommunications Act of 1996, [47 U.S.C. § 332\(c\)](#).

~~L~~ “~~Tower~~, **Telecommunications tower**” means any structure, vertical in inclination, that is designed and constructed and normally used for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. This may include television and radio transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and other freestanding towers, either for private or commercial purposes. The term includes the structure and any support thereto.

“Tolling” or “tolled” means the pausing of the running of the time period permitted under the applicable shot clock for the respective type of application for a personal wireless services facility. Where a shot clock is tolled because an application has been deemed incomplete and timely notice of incompleteness was mailed to the applicant, the submission of additional materials by the applicant to complete the application will end the tolling, thus causing the shot clock period to resume running, as opposed to causing the shot clock to begin running anew.

“Town” means the Town of Mesilla.

“Undertaking” means any application for a special use permit seeking Town of Mesilla approval for the installation of a personal wireless services facility licensed under the authority of the FCC shall constitute an undertaking within the meaning of NEPA, in accord with [42 CFR 137.289](#) and [36 CFR 800.16](#).

“Users” means “wireless carriers” or “carrier” companies that provide personal wireless services to end-use consumers.

~~M~~ “Vertical structure” means any built object that is either independent of or attached to any building or other structure that is perpendicular in its direction to the nearest adjacent ground, including but not limited to flag poles, belfries, chimneys and parapet walls.

~~N~~ “View corridors” are defined as an area identified either in the Mesilla comprehensive plan or by a federal or state agency as the location of a particular designated scenic or cultural resource or trail system and as an area from which a WTF can be seen. **View corridors are to**

include but are not limited to the Butterfield Trail, view of the Organ Mountains – Desert Peaks National Monument, Picacho Peak. The view corridors are established by the Board of Trustees of the Town of Mesilla as per resolution.

☒ “Wireless telecommunications facility (WTF)” includes all equipment, buildings and structures with which a wireless communications service carrier broadcasts and receives the RF waves and all locations of said equipment or any part thereof. [Ord. 2003-10 § 2]

“Wireless carriers” or “carrier” means companies that provide personal wireless services to end-use consumers.

“Zoning appeals” means appeals made to the Town of Mesilla.

#### **18.54.030 Applicability and exemptions.**

A. 1. New Towers and Antennas. All new towers or antennas in the town of Mesilla shall be subject to these regulations, except as provided in subsections (B) and (C) of this section.

2. Amateur Radio Station Operators/Receive Only Antennas. The sections that follow shall not govern television antennas, satellite dishes and receive only antennas; provided, that the primary use of the property is not a wireless telecommunications facility (WTF) and that the antenna use is accessory to the primary use of the property. Nor shall the sections that follow govern any freestanding vertical structure or the installation of any freestanding vertical structure located in the R-1 zone that is under 30 feet in height or located in the RA zone that is under 40 feet in height or located in the RF zone that is under 50 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

B. Pre-existing Towers or Antennas. Pre-existing towers and pre-existing antennas for which a building permit has been properly issued prior to the effective date of the ordinance codified in this chapter shall not be required to meet the requirements of this chapter, other than the requirements of MTC 18.54.040(G) and (H).

C. Public property owned or otherwise controlled by the town of Mesilla shall not ~~may~~ be exempt from the requirements of this chapter.

D. Towers and antennas shall be regulated and permitted pursuant to this chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities. [Ord. 2003-10 § 3]

#### **18.54.040 General standards and construction provisions.**

A. Height. All structure heights shall be measured from the lowest adjacent ground level vertically to the highest point of all structures, whether attached to the ground, the building or other structure(s). The principal supporting structure for WTFs shall be permitted to exceed the height limit of the zoning district in which it is located; provided, that the setback standards in MTC 18.54.060 shall apply.

B. Lot Size. For the purposes of determining whether the installation of a tower or antenna complies with zoning development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the WTF may be located on leased parcels within such lot.

C. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Mesilla irrespective of municipal and county jurisdictional boundaries.

D. Public Notice & Hearings. For purposes of this chapter, a special use permit request, a variance request or an appeal of a special use permit or variance shall require public notice in a local publication of record which is Las Cruces Bulletin. In the event, Las Cruces Bulletin is not available, public notice will be ran in any other local general circulation within the town of Mesilla and all public notification locations. Each "notice of public hearing for new wireless facility" shall state the name or names of the respective applicant or co-applicants, provide a brief description of the personal wireless facility for which the applicant seeks a special use permit, and the date, time, and location of the hearing. In order that the town may notify nearby landowners, the application shall contain the names and address of all property owners of properties that are located within 1,500 feet of any property line of the lot or parcel on which the WTF is proposed to be located. This requirement is in addition to any and all notice requirements contained in the town's zoning ordinance.

Required Public Notices. The Town of Mesilla shall ensure that both the public and property owners whose properties might be adversely impacted by the installation of a wireless facility receive notice of any public hearing pertaining to same and shall ensure that they are afforded an opportunity to be heard concerning same.

The face of each envelope containing the notices of the public hearing shall state, in all bold typeface, in all capital letters, in a font size no smaller than 18 point, the words:

NOTICE OF PUBLIC HEARING FOR NEW WIRELESS FACILITY

The applicant shall additionally post a notice upon the proposed site advising the public of the public hearing.

Prior to the date of the hearing, the respective applicant shall file an affidavit of mailing, attesting to whom such notices were mailed by the applicant, and the content of the notices which were mailed to such recipients.

Hearings and public notice.

A. Public Hearings. The Town of Mesilla shall conduct a public hearing upon each special use permit application, consistent with the procedures in Section 18.36.060, except the Town of Mesilla shall have authority to schedule such additional or more frequent public hearings as may be necessary to comply with the applicable shot clocks imposed upon the town and the Town of Mesilla under the requirements of the TCA.

Before the date scheduled for the public hearing, the Town of Mesilla shall cause to be published a “notice of public hearing for new wireless facility.”

~~B.~~ ~~E.~~ Minimum Wind Speed. All structures shall be constructed and installed to manufacture’s specification and constructed to withstand a minimum 90-mile-per-hour wind, or the minimum wind speed as required by the town’s adopted Uniform Building Code, as amended, whichever wind speed is greater.

~~C.~~ ~~F.~~ Building Codes. Structures shall be permitted and constructed to meet current town of Mesilla building code requirements, including the Uniform Building Code, and required setback provisions as prescribed for the zoning districts in which such structures are permitted. If any setback or buffer yard as prescribed in the town’s zoning code requires a greater distance than required in this chapter, the greater setback shall apply.

~~D.~~ ~~G.~~ Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that the tower is maintained in compliance with the standards contained in applicable federal, state and town building codes. If, upon inspection, the town of Mesilla concludes that a tower fails to comply with such codes and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to do so shall constitute grounds for the removal of the tower or antenna at the owner’s expense.

~~E.~~ ~~H.~~ State or Federal Requirements. All towers shall meet or exceed current standards and regulations of the Federal Communication Commission (FCC), the Federal Aviation Administration (FAA) and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of the revisions, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with

such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

**F.** ~~F.~~ Business Registration Required. Business registrations are required for each WTF for commercial purposes located within the town limits of Mesilla, regardless of whether said structure is freestanding, co-located, facial or roof mounted, or part of an integrated structure or improvement. Business registrations are renewable annually.

**G.** ~~G.~~ Inventory of Existing Sites. Each applicant for a WTF shall provide to the PZHAC an inventory of existing towers, antennas or sites approved for towers or antennas that are located within the service area proposed to be served by the new tower, including specific information about the location, height and design, and the owners/operators of each tower or site and indicate the distance of such towers, antennas or sites from the proposed WTF.

**H.** ~~H.~~ Aesthetics. Towers and antennas shall meet the following aesthetic requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. The design of the buildings and related structures at a WTF site shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and any surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

**I.** ~~I.~~ Lighting. Only security lighting not to exceed 12 feet in height or lighting required by a state and/or federal agency is allowed, providing the location of the lighting fixture together with its cut-off angle shall be such that it does not shine directly on any public right-of-way or any residential premises.

**J.** ~~J.~~ Signs. No signs shall be allowed on an antenna or tower other than signage required by the FCC or other regulatory agency and signs that warn of safety hazards or prohibit access; provided, that such signs are no larger than one square foot and are reviewed by town staff and approved by the board of trustees.

**K.** ~~K.~~ Building and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply fully with the town's building codes.

L. ~~Q.~~ Health Issues. Every wireless telecommunications facility shall meet health and safety standards for electromagnetic field emissions as established by the Federal Communications Commission or any successor thereof, and any other federal or state agency.

M-~~P.~~ View Corridors. No wireless communication tower or facility is allowed within ~~660~~ 1320 feet (or one-eighth **quarter of a mile**) of the outer edge of the right-of-way of any designated view corridor, **to include but not limited to the Butterfield Trail, view of the Organ Mountains – Desert Peaks National Monument.** The view corridors are established by the Board of Trustees of the Town of Mesilla as per resolution.

N. ~~Q.~~ Historic Preservation Review. No WTF that may affect archaeological, historic or cultural properties that are listed or are eligible for listing on the National Register of Historic Places shall be constructed, installed or modified without first obtaining Historic Preservation Division 106 Review as per 36 CFR part 800 in accordance with the National Historic Preservation Act of 1966, as amended. A project comment review letter from the State of New Mexico Historic Preservation Division, Office of Cultural Affairs shall be filed with the town at the time of filing a business registration application and/or special use permit application.

O. ~~R.~~ Visual Models. Visual models shall be required of all applicants for a WTF as follows:

1. Photographic Simulation. The applicant shall be required to provide a photographic simulation with the image of a tower or other proposed communications structure and all structures associated with the site superimposed over the existing view to provide a sense of the visual impact expected from the proposed WTF.

2. Site-Located Height Model ~~or Balloon Test~~. A height model, which shall be a pole or other object erected or floated at the site to the requested height of the proposed WTF, may be required as a condition of the special use permit. If required, the following conditions shall apply:

a. The applicant shall submit photographs of the height model ~~or balloon test~~ from neighboring residential areas and public roadways and other locations around the town as specified by the PZHAC within three miles from which the height model ~~or balloon~~ is visible. The height model ~~or balloon~~ shall be a minimum of three feet in diameter.

b. Photographs of the height model ~~or balloon test~~ shall be submitted no less than 10 days prior to the scheduled public hearing date for the special use permit.

c. Height models ~~or balloon tests~~ shall be erected for a minimum of three days no less than 15 days prior to the scheduled public hearing date for the special use permits. The legal notice for the special use permit shall state the dates and location during which the height model ~~or balloon test~~ will be erected.

d. The PZHAC may waive this requirement if it is determined that the photographic simulation is adequate to address any and all visual impact issues.

e. Town staff shall issue administratively any permit necessary for a temporary height model required for staff and public inspection purposes.

~~O. S.~~ All utilities at a WTF site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the town of Mesilla, the National Electrical Safety Code and the National Electrical Code where appropriate.

~~P. T.~~ All applicants for a WTF or any modification to an existing WTF should develop their plans to allow reasonable requests from the town to use space on its towers and space within the existing or planned compound for deploying and operating public service radio facilities at no cost to the town. Provisions for adequate advance notice regarding town access to the WTF for routine activities will be arranged with the applicant. [Ord. 2003-10 § 4]

The following design standards shall apply to all applications for the siting, construction, maintenance, use, erection, movement, reconstruction, expansion, material change, or structural alteration of a personal wireless service facility:

Q. Small Wireless Facilities. Small wireless facilities (SWF) shall be sited to inflict the minimum adverse impacts upon individual residential properties, and specifically, to minimize, to the greatest extent reasonably feasible, adverse aesthetic impacts upon residential homes or reductions in the property values of same.

SWFs attached to pre-existing wooden and nonwooden poles shall conform to the following criteria:

1. Proposed antenna and related equipment shall meet:

a. Design standards which the town may maintain and update as needed; provided, that the town makes its design standards publicly available for review by any potential applicant seeking approval for the installation of an SWF within the town; and

b. National Electric Safety Code (NESC) standards; and

c. National Electrical Code (NEC) standards.

2. Antennas and antenna equipment, including but not limited to radios, cables, associated shrouding, disconnect boxes, meters, microwaves, and conduit, which are

mounted on poles, shall be mounted as close to the pole as technically feasible. They shall not be illuminated except as required by municipal, federal, or state authority, provided this shall not preclude deployment on a new or replacement street light.

3. Antennas and associated equipment enclosures must be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible. Conduits and cabinets shall cover all cables and wiring to the extent that it is technically feasible if allowed by the pole owner. The number of conduits shall be minimized to the extent technically feasible. To the extent technically feasible, antennas, equipment enclosures, and all ancillary equipment, boxes, and conduits shall match the approximate material and design of the surface of the pole or existing equipment on which they are attached.

SWFs attached to replacement poles and new poles shall conform to the criteria set forth herein above for SWFs attached to pre-existing wooden and nonwooden poles, but shall additionally conform to the following criteria:

- a. The town prefers that wireless providers and site developers install SWFs on existing or replacement poles instead of installing new poles, and accordingly, to obtain approval for the installation of a new pole, the provider shall be required to document that installation on an existing or replacement pole is not technically feasible.
- b. To the extent technically feasible, all replacement poles and new poles and pole-mounted antennas and equipment shall substantially conform to the material and design of the pole being replaced, or in the case of a new pole, it shall conform to the nearest adjacent pole or poles.
- c. The height of replacement poles and new poles shall conform with the height limitations applicable to the zone within which the applicant seeks to install their proposed SWF unless the applicant obtains a variance to obtain relief from any such limitation(s).

R. Telecommunications Towers and Personal Wireless Service Facilities Which Do Not Meet the Definition of a Small Wireless Facility. The design of a proposed new telecommunications tower or personal wireless service facility shall comply with the following:

1. The choice of design for installing a new personal wireless service facility or the substantial modification of an existing personal wireless service facility shall be chosen to minimize the potential adverse impacts that the new or expanded facility may, or is likely to, inflict upon nearby properties.

2. Any new telecommunications tower shall be designed to accommodate future shared use by other communications providers.

3. Unless specifically required by other regulations, a telecommunications tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.

4. Notwithstanding the height restrictions listed elsewhere in this chapter, the maximum height of any new telecommunications tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and/or federal law and/or regulation.

5. Accessory Structures.

a. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend with the natural surroundings. The use of camouflage communications towers may be required by the Town of Mesilla to blend the communications tower and/or its accessory structures further into the natural surroundings. "Camouflage" is defined as the use of materials incorporated into the communications tower design that give communications towers the appearance of tree branches and bark coatings, church steeples and crosses, sign structures, lighting structures, or other similar structures.

b. Accessory structures shall be designed to be architecturally similar and compatible with each other and shall be no more than 12 feet high. The buildings shall be used only for housing equipment related to the particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building.

c. No portion of any telecommunications tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to the company name, phone numbers, banners, and streamers, except the following: a sign of no greater than two square feet indicating the name of the facility owner(s) and a 24-hour emergency telephone shall be posted adjacent to any entry gate. In addition, "no trespassing" or other warning signs may be posted on the fence. All signs shall conform to the sign requirements of the town and/or the Municipal Code.

6. Towers must be placed to minimize visual impacts. Applicants shall place towers on the side slope of the terrain so that, as much as possible, the top of the tower does not protrude over the ridgeline, as seen from public ways.

7. Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees shall take place on a site connected with an application made under this chapter prior to the approval of the special use permit use.

8. Screening.

a. Deciduous or evergreen tree plantings may be required to screen portions of the telecommunications tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas.

b. Where a site adjoins a residential property or public property, including streets, screening suitable in type, size and quantity shall be required by the Town of Mesilla.

c. The applicant shall demonstrate to the approving Town of Mesilla that adequate measures have been taken to screen and abate site noises such as heating and ventilating units, air conditioners, and emergency power generators. Telecommunications towers shall comply with all applicable sections of this chapter as it pertains to noise control and abatement.

9. Lighting. Telecommunications towers shall not be lighted except where FAA/FCC required lighting of the telecommunications towers is necessary. No exterior lighting shall spill from the site in an unnecessary manner.

10. Access.

a. Adequate emergency and service access shall be provided and maintained. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to the top of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

b. To the extent feasible, all network interconnections to and from the telecommunications site and all power to the site shall be installed underground. At the initial construction of the access road to the site, sufficient conduit shall be laid to accommodate the maximum possible number of telecommunications providers that might use the facility.

11. Parking. Parking shall be provided to assure adequate emergency and service access. The Town of Mesilla shall determine the number of required spaces, but in no case shall the number of parking spaces be less than two spaces.

12. Fencing. The telecommunications tower and any accessory structures shall be adequately enclosed by a fence, the design of which shall be approved by the Town of Mesilla. The Town of Mesilla may waive this requirement if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.

**18.54.050 Co-location.**

To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location or shared use of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:

A. The antenna complies with all applicable FCC and FAA regulations.

B. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower, unless the PZHAC allows reconstruction as a monopole.

C. Height. An existing tower may be modified or rebuilt to a taller height not to exceed 30 feet over the tower’s existing height, to accommodate the co-location of an additional antenna. This height change may occur only one time per communication tower and the additional height cannot require an additional distance separation as set forth in MTC [18.54.070\(D\)](#). The tower’s premodification height shall be used to calculate such distance separations.

D. On-Site Location. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on-site within 50 feet of its existing location. If the tower is moved to accommodate co-location, only one tower may remain on the site. A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to MTC [18.54.070\(D\)](#). [Ord. 2003-10 § 5]

**18.54.060 Heights, placement provisions and setbacks.**

A. Heights.

<b>Zone</b>	<b>Towers</b>	<b>Other Communication Structures</b>
HR, HC	Expressly prohibited	Prohibited

Towers and other communication structures are also expressly prohibited <del>1320 feet</del> <b>1320 feet</b> within <del>660 feet</del> <b>660 feet</b> (or <del>1/48</del> <b>1/48</b> mile) of the boundary of an historic resource or district or view corridor.		
C	Expressly prohibited	Must be concealed as per subsection (D) of this section
R-1	Up to 65 feet For noncommercial use only	Up to 65 feet For noncommercial use only
RA	Up to 65 feet For noncommercial use only	Up to 65 feet For noncommercial use only
RF	Up to 65 feet for a single user Up to 75 feet for three users <del>Up to 100 feet for four or more users</del>	See MTC <a href="#">18.54.030(B)</a>

The applicant shall submit documentation justifying the total height of any tower or other communication structure, facility, and/or antenna and the basis therefore. Such documentation will be analyzed, to the extent practicable, in the context of the justification of the height needed to provide service primarily and essentially within the town boundaries and the immediately surrounding area, to the extent practicable.

No tower, including allowing for all attachments, shall exceed that height which shall permit operations without required artificial lighting of any kind in accordance with municipal, county, state and/or federal law, ordinance, code, rule or regulation.

#### Height restrictions.

1. **Small Wireless Facilities.** Personal wireless service facilities which meet the definition of a small wireless facility shall not exceed a maximum height of 60 feet above ground elevation in the public use, and residential single-family zones, and shall not exceed a maximum height of 45 feet within all other zoning zones.

2. **Non-small Wireless Facilities.** Personal wireless service facilities which do not meet the definition of a small wireless facility shall not exceed a maximum height of 75 feet above ground elevation in the public use in all zones.

~~B. The following placement and setback requirements shall apply to all freestanding vertical structures under 50 feet for which a special use permit is not required:~~

~~1. Towers and other freestanding vertical structures and satellite service devices in the R-1, RA and RF zones shall be placed within the primary buildable area for the lot's zone and must be to the side and/or rear of any and all residential dwelling structures, including houses, apartments, duplexes, etc.~~

~~2. Structures shall be set back from any adjoining property line one foot for each one foot in height plus 10 percent of the total height of the structure.~~

~~3. Additional setbacks may be required in both this section and in the following section to meet the distance equal to at least the potential fall radius of a support structure as certified by a licensed New Mexico professional engineer or to preserve the privacy and integrity of adjoining residential, public or historic properties.~~

~~4. Guy wires used to secure and steady a tower and accessory buildings shall conform to the minimum setback requirements for the lot's zone.~~

~~C. The following placement and setback requirements shall apply to all towers for which a special use permit is required:~~

~~1. Towers and other communication structures for which a special use permit is required shall be placed within the primary buildable area for the lot's zone and must be to the side and/or rear of the primary building structure. If the antenna, communication structure or satellite service device is the primary structure, then such structure shall be within the primary buildable area, including all equipment buildings.~~

~~2. Required tower or other antenna support setbacks from all property lines:~~

~~a. Up to 75 feet, the setback is one foot for each foot of height, plus 10 percent of the total height of the structure;~~

~~b. From 75 to 125 feet, the setback is two feet for each foot of height;~~

~~c. From 126 to 150 feet, the setback is three feet for each foot of height.~~

~~3. When a proposed tower will be located in or adjacent to a district which permits residential use, or where a residential structure is located, the tower shall also be set back from the nearest residential use on the same or any adjacent parcel, a distance 20 percent greater than its total height.~~

~~4. A special use permit shall be required for WTFs proposed to be constructed on lots adjacent to property zoned R-1 or RA.~~

~~D. Concealed wireless communications facilities are permitted within the C zone providing the following conditions are met:~~

~~1. The structure is architecturally integrated with existing buildings, structures and landscaping, including height, color, style, massing, placement, design and shape and is not readily visible as a wireless telecommunications facility. No setback shall be required for an architecturally integrated WTF less than 24 feet high.~~

~~2. The structure is located in areas where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening.~~

~~3. The structure is located on existing vertical infrastructure, such as utility poles and public utility structures, if possible.~~

~~4. The structure complies with all other aesthetic requirements as set forth in this chapter.~~

~~5. The structure is approved through the special use permit process. [Ord. 2003-10 § 6]~~

## Setback requirements.

### A. Small Wireless Facilities.

1. The minimum setback from any residential dwelling or structure shall be 150 feet, unless the facility is being installed upon a pre-existing utility pole or other utility structure.

2. Within all residentially zoned and other zones, all small wireless facilities shall be set back a minimum of 300 feet from any residential dwelling or structure, unless the facility is being installed upon a pre-existing utility pole or is being collocated upon a pre-existing personal wireless service facility.

### B. Cell Towers and All Personal Wireless Service Facilities That Do Not Meet the Definition of a Small Wireless Facility.

1. Each proposed wireless personal service facility and personal wireless service facility structure, compound, and complex shall be located on a single lot and comply with applicable setback requirements. Adequate measures shall be taken to contain on site all icefall or debris from tower failure and preserve the privacy of any adjoining residential properties.

2. Each lot containing a wireless personal service facility and personal wireless service facility structure, compound, and complex shall have the minimum area, shape, and

frontage requirements generally prevailing for the zoning zone where located, in the schedules of regulations for nonresidential and residential zones of this chapter, and such additional land if necessary to meet the setback requirements of this section.

3. Cell towers and personal wireless service facilities that do not meet the definition of a small wireless facility, shall maintain a minimum setback of a distance equal to 110 percent of the height of the facility, for front yard setbacks, rear yard setbacks and side yard setbacks, in all zoning zones.

4. In addition to the above required setbacks from property lines, cell towers and personal wireless service facilities that do not meet the definition of a small wireless facility, shall maintain a minimum setback of 300 feet from any residential dwelling or structure in all zones.

**18.54.070 Special use permits.**

A. General. The following provisions shall govern the issuance of special use permits for the siting of a WTF, including but not limited to the construction of a tower and the placement of an antenna, by the board of trustees, the governing body of the town of Mesilla.

1. Applications for special use permits under this section shall be made to the Town of Mesilla, who shall initially determine whether or not the application is complete and/or free of defects upon receipt of the same.

2. If the town planning official determines that the application is defective or incomplete, they shall promptly mail a notice of incompleteness to the applicant, to toll the applicable shot clock, to ensure that the town is afforded sufficient time to review and determine each respective application.

3. The absence of any one of which listed herein below, shall render the respective application incomplete:

4. Wireless Communications Facilities SUP are for 5 years. Upon expiration, a renewal will be necessary and all current regulations must be met. SUP fees applicable according to fee schedule.

A. Special Use Permit and Site Plan Applications. Completed applications for a special use permit and site plan that shall identify all applicants, co-applicants, site developer(s), and wireless carrier(s) on whose behalf the application is being submitted, as well as the property owner of the proposed site.

B. Filing Fees. The appropriate filing fees then being charged by the town for special use permit applications and other related applications.

C. A "Notice Address." A "notice address," that being a specific address to which the town, Town of Mesilla, and/or town planning official may mail any type of notice, and that the mailing of same to such address shall constitute sufficient notice to any applicant, -, and/or their attorney, to comply with any requirement under this section as well as any local, state and/or federal law.

D. Proof of Authorization for Site Occupancy. Where an applicant is not the owner of the real property upon which it seeks to install its equipment or facility, they shall submit proof of authorization to occupy the site at issue. If the applicant is leasing all or a portion of real property upon which it intends to install its new facility or equipment, then the applicant shall provide a written copy of its lease with the owner of such property. The applicant may redact any financial terms contained within the lease, but it shall not redact any portion of the lease which details the amount of area leased nor the specific portion of the real property to which the applicant has obtained the right to occupy, access, or preclude others from entering.

Where an applicant is seeking to collocate new equipment into an existing facility, it shall provide a copy of its written collocation agreement with the owner of such pre-existing facility, from which it may redact any financial terms.

E. A Drawn-to-Scale Depiction. The applicant shall submit drawn-to-scale depictions of its proposed wireless support structure and all associated equipment to be mounted thereon, or to be installed as part of such facility, which shall clearly and concisely depict all equipment and the measurements of same, to enable the town planning official to ascertain whether the proposed facility would qualify as a small wireless facility as defined under this chapter.

If the applicant claims that its proposed installation qualifies as a small wireless facility within this chapter, the drawn-to-scale depiction shall include complete calculations for all of the antennas and equipment of which the facility will be comprised, depicting that, when completed, the installation and equipment will meet the physical size limitations which enable the facility to qualify as a small wireless facility.

F. Site Plan. The applicant shall submit a site plan and site plan application. The site plan shall show all existing and proposed structures and improvements, including antennas, roads, buildings, guy wires and anchors, parking, and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.

G. Engineer's Report. To the extent that an application proposes the colocation of new equipment onto an existing tower or facility, the applicant shall provide an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure and explaining what modifications, if any, will be required in order to certify to the above.

H. Environmental Assessment Form. A completed environmental assessment form (EAF) and a completed visual EAF addendum.

I. Visual Impact Analysis. A completed visual impact analysis, which, at a minimum, shall include the following:

1. Small Wireless Facilities. For applications seeking approval for the installation of a small wireless facility, the applicant shall provide a visual impact analysis which shall include photographic images taken from the perspectives of the properties situated in closest proximity to the location being proposed for the siting of the facility, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as their close proximity to the site, their elevation relative to the site, the existence or absence of a "clear line of sight" between the tower location and their location.

2. Telecommunications Towers and Personal Wireless Service Facilities Which Do Not Meet the Definition of a Small Wireless Facility. For applications seeking approval for the installation of a telecommunications tower or a personal wireless service facility that does not meet the definition of a small wireless facility, the applicant shall provide:

- a. A "zone of visibility map" to determine locations from where the new facility will be seen.

- b. A visual impact analysis which shall include photographic images taken from the perspectives of the properties situated in closest proximity to the location being proposed for the siting of the facility, as well as those properties which would reasonably be expected to sustain the most significant adverse aesthetic impacts due to such factors as their close proximity to the site, their elevation relative to the site, the existence or absence of a "clear line of sight" between the tower location and their location.

The photographic images shall depict the height at which the proposed facility shall stand when completed, including all portions and proposed attachments to the facility, including, but not limited to, the main support structure, all antennas, transmitters, whip antennas, lightning rods, t-bars, crossbars, and cantilever attachments which shall, in whole or in part, be affixed to it, any and all surrounding equipment compound(s), fencing, cellular equipment cabinets, transformers, transformer vaults and/or cabinets, sector distribution boxes, ice bridges, backup generators, including but not limited to equipment boxes, switch boxes, backup generators, ice bridges, etc., to the extent that any of such compound and/or equipment will be visible from properties other than the property upon which the proposed tower and compound are to be installed.

The visual impact analysis shall include an assessment of alternative designs and color schemes, as well as an assessment of the visual impact of the proposed facility, taking into consideration any supporting structure which is to be constructed, as well as its base, guy wires, accessory structures, buildings, and overhead utility lines from abutting properties and streets.

J. Alternative Site Analysis. A completed alternative site analysis of all potential less intrusive alternative sites which the applicant has considered, setting forth their respective locations, elevations, and suitability or unsuitability for remedying whatever specific wireless coverage needs the respective applicant or a specific wireless carrier is seeking to remedy by the installation of the new facility which is the subject of the respective application for a special use permit.

If, and to the extent that, an applicant claims that a particular alternative site is unavailable, in that the owner of an alternative site is unwilling or unable to accommodate a wireless facility upon such potential alternative site, the applicant shall provide probative evidence of such unavailability, whether in the form of communications or such other form of evidence that reasonably establishes same.

The alternative site analysis shall contain:

1. An inventory of all existing tall structures and existing or approved communications towers within a two-mile radius of the proposed site.
2. A map showing the exact location of each site inventoried, including latitude and longitude (degrees, minutes, seconds), ground elevation above sea level, the height of the structure and/or tower, and accessory buildings on the site of the inventoried location.

3. An outline of opportunities for shared use of an existing wireless facility as opposed to the installation of an entirely new facility.

4. A demonstration of good-faith efforts to secure shared use from the owner of each potential existing tall structure and existing or approved communications tower, as well as documentation of the physical, technical, and/or financial reasons why shared usage is not practical in each case.

K. FCC Compliance Report. An FCC compliance report, prepared by a licensed engineer, and certified under penalties of perjury, that the content thereof is true and accurate, wherein the licensed engineer shall certify that the proposed facility will be FCC compliant as of the time of its installation, meaning that the facility will not expose members of the general public to radiation levels that exceed the permissible radiation limits which the FCC has set.

If it is anticipated that more than one carrier and/or user is to install transmitters into the facility that the FCC compliance report shall take into account anticipated exposure from all users on the facility and shall indicate whether or not the combined exposure levels will, or will not exceed the permissible general population exposure limits, or alternatively, the occupational exposure limits, where applicable.

Such FCC compliance report shall provide the calculation or calculations with which the engineer determined the levels of RF radiation and/or emissions to which the facility will expose members of the general public.

On the cover page of the report, the report shall explicitly specify: (1) whether the applicant and their engineer are claiming that the applicable FCC limits based upon which they are claiming FCC compliance are the general population exposure limits or the occupational exposure limits. If the applicant and/or their engineer are asserting that the occupational exposure limits apply to the proposed installation, they shall detail a factual basis as to why they claim that the higher set of limits is applicable, (2) the exact minimum distance factor, measured in feet, which the applicant's engineer used to calculate the level of radiation emissions to which the proposed facility will expose members of the general public. The minimum distance factor is the closest distance (i.e., the minimum distance) to which a member of the general public shall be able to gain access to the transmitting antennas mounted upon, or which shall be a part of, the proposed facility.

L. FCC License. A copy of any applicable Federal Communications Commission license possessed by any carrier named as an applicant, co-applicant, or whose equipment is proposed for installation as of the time the application is being filed with the town.

M. Effective Prohibition Claims. The town is aware that applicants seeking approvals for the installation of new wireless facilities often assert that federal law, and more specifically the TCA, prohibits the local government from denying their respective applications. In doing so, they assert that their desired facility is “necessary” to remedy one or more significant gaps in a carrier’s personal wireless service, and they proffer computer-generated propagation maps to establish the existence of such purported gaps.

The town is additionally aware that, in August 2020, driven by a concern that propagation maps created and submitted to the FCC by wireless carriers were inaccurate, the FCC caused its staff to perform actual drive tests, wherein the FCC staff performed 24,649 tests, driving nearly 10,000 miles through nine states, with an additional 5,916 stationary tests conducted at 42 locations situated in nine states.

At the conclusion of such testing, the FCC staff determined that the accuracy of the propagation maps submitted to the FCC by the wireless carriers had ranged from as little as 16.2 percent accuracy to a maximum of 64.3 percent accuracy.

As a result, the FCC staff recommended that the FCC no longer accept propagation maps from wireless carriers without supporting drive test data to establish their accuracy. A copy of the FCC staff’s 66-page report is made a part of this chapter by reference as Appendix 1. The town considers it of critical import that applicants provide truthful, accurate, complete, and sufficiently reliable data to enable the Town of Mesilla to render determinations upon applications for new wireless facilities consistent with both the requirements of this chapter and the statutory requirements of the TCA.

Consistent with same, if, at the time of filing an application under this chapter, an applicant intends to assert before the Town of Mesilla or the town that: (1) an identified wireless carrier suffers from a significant gap in its personal wireless services within the town, (2) that the applicant’s proposed installation is the least intrusive means of remedying such gap in services, and/or (3) that under the circumstances pertaining to the application, a denial of the application by the Town of Mesilla would constitute an “effective prohibition” under 47 U.S.C. § 332 the TCA, then, at the time of filing such application, the applicant shall be required to file a written statement which shall be entitled: “Notice of Effective Prohibition Conditions.”

If an applicant files a notice of effective prohibition conditions, then the applicant shall be required to submit probative evidence to enable the Town of Mesilla to reasonably determine: (1) whether or not the conditions alleged by the respective applicant exist, (2) whether there exists a significant gap or gaps in an identified wireless carrier’s personal wireless services within the town, (3) the geographic locations of any such gaps, and (4) the geographic boundaries of such gaps, to enable the Town of Mesilla to

determine whether granting the respective application would be consistent with the requirements of this chapter and the legislative intent behind same, and whether or not federal law would require the Town of Mesilla to grant the respective application, even if it would otherwise violate the town's Municipal Code, including, but not limited to, this chapter.

The additional materials which the applicant shall then be required to provide shall include the following:

1. Drive Test Data and Maps. If, and to the extent that, an applicant claims that a specific wireless carrier suffers from a significant gap in its personal wireless services within the town, the applicant shall conduct or cause to be conducted a drive test within the specific geographic areas within which the applicant is claiming such gap or gaps exist, for each frequency at which the carrier provides personal wireless services. The applicant shall provide the town and the Town of Mesilla with the actual drive test data recorded during such drive test, in a simple format which shall include, in table format:

- a. The date and time for the test or tests;
- b. The location, in longitude and latitude, of each point at which signal strength was recorded; and
- c. Each signal strength recorded, measured in DBM, for each frequency. Such data is to be provided in a separate table for each frequency at which the respective carrier provides personal wireless services to any of its end-use customers;
- d. The applicant shall also submit drive test maps, depicting the actual signal strengths recorded during the actual drive test, for each frequency at which the carrier provides personal wireless services to its end-use customers.

If an applicant claims that it needs a "minimum" signal strength (measured in DBM) to remedy its gap or gaps in service, then for each frequency, the applicant shall provide three signal strength coverage maps reflecting actual signal strengths in three DBM bins, the first being at the alleged minimum signal strength, and two additional three DBM bin maps depicting signal strengths immediately below the alleged minimum signal strength claimed to be required.

By way of example, if the applicant claims that it needs a minimum signal strength of -95 DBM to remedy its alleged gap in service, then the applicant shall provide maps depicting the geographic area where the gap is alleged to exist, showing the carrier's coverage at -95 to -98 DBM, -99 to -101 DBM and -102 to -104 DBM, for each frequency at which the carrier provides personal wireless services to its end-use customers.

2. Denial of Service and/or Dropped Call Records. If and to the extent that an applicant claims that a specific wireless carrier suffers from a capatown deficiency, or a gap in service that renders the carrier incapable of providing adequate coverage of its personal wireless services within the town, then the applicant shall provide dropped call records and denial of service records evidencing the number and percentage of calls within which the carrier's customers were unable to initiate, maintain and conclude the use of the carrier's personal wireless services without actual loss of service, or interruption of service.

N. Estimate for Cost of Removal of Facility. A written estimate for the cost of the decommissioning, removal of the facility, including all equipment that comprises any portion or part of the facility, compound, and/or complex, as well as any accessory facility or structure, including the cost of the full restoration and reclamation of the site, to the extent practicable, to its condition before development in accord with the decommissioning and reclamation plan required herein.

O. Property Owner Consent and Liability Acknowledgment. A signed written consent from each owner of the subject real property upon which the respective applicant is seeking installation of its proposed personal wireless service facility, wherein the owner or owners, both authorize the applicant to file and pursue its special use permit application and acknowledge the potential landowner's responsibility.

4. ~~2~~ Applications for special use permits under this section shall be subject to the procedures and requirements of the zoning regulations and standards, MTC [18.55.010](#), [18.85.080](#), [18.85.100](#); and Chapter [18.85](#) MTC, Article III; except as modified in this chapter, with the planning, zoning and historical appropriateness commission (PZHAC) acting as a recommending body and the board of trustees acting as the granting body.

5. ~~2~~ The PZHAC, in recommending a special use permit to the board of trustees, and the board of trustees, in granting a special use permit, may impose conditions and limitations to the extent the commission and board conclude such conditions and limitations are necessary to minimize any adverse effect of the proposed WTF on adjoining properties.

6. ~~3~~. Any engineering information submitted by the applicant, whether civil, mechanical, or electrical, shall be certified by a professional engineer licensed in the state of New Mexico.

7. ~~4~~. An applicant for a special use permit shall submit the information described below in this section and a nonrefundable filing fee as described in the zoning regulations and standards, MTC [18.85.140\(A\)](#).

**P. ~~B~~. Wireless Telecommunications Facilities (WTFs) – Information Required.** In addition to any information required for applications for special use permits pursuant to MTC [18.55.010](#) and Chapter [18.35](#) MTC, Article II, of the zoning regulations and standards, applicants for a special use permit for a WTF shall submit the following information:

1. A scaled site plan clearly indicating the location, type and height of the proposed tower; on-site land uses and zoning, adjacent land uses and zoning, including, when adjacent to the county or another municipality; adjacent roadways; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower and any other structures; topography; parking and other information deemed by town staff to be necessary to assess compliance with this chapter.

2. Legal description of the property upon which or upon part of which the applicant proposed to located the WTF and a list of all mortgages on the property at the time of application.

3. The setback distance between the proposed tower and the nearest residential unit or the nearest platted or un-platted residentially zoned properties.

4. The separation distance from other existing towers within 1,000 feet of the proposed tower. The applicant shall also identify the type of construction of such existing tower(s) and their owner(s)/operator(s).

5. The landscape screening plan showing specific landscape materials.

6. Method of providing security, fencing or wall, and finished color and, if applicable, the method of camouflage and illumination.

7. A description of compliance with MTC [18.54.040](#)(E) to (H) and (K) to (R) and all applicable federal, state and local laws.

8. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
9. Identification of the entities providing the network connections for the proposed tower and other cellular sites owned or operated by the applicant in the town of Mesilla.
10. A statement as to the projected number and locations of any WTFs proposed to be built in the town of Mesilla within two years of the date of the current application and that are part of the same system as the WTF for which a special use permit is currently being sought.
11. The applicant shall submit documentation of the legal right to install the WTF, including ingress and egress easements, and shall include original signature(s) of such land owner(s) and a copy of the property deed, plus a full copy of any proposed lease agreement with subject property owner(s).
12. A copy of the tax map and parcel identification code number of the subject property as shown in the records of the Dona Ana County assessor's office.
13. A site plan showing all property within 1,500 feet of the perimeter of the proposed property that will house the proposed WTF. A list of the owners of each of the affected properties and their mailing addresses as shown by the Dona Ana County assessor's office.
14. A copy of the FCC license for the WTF and a notarized statement from the owner or operator of the WTF attesting that the WTF complies with current FCC regulations.
15. Project comment review letter from the State of New Mexico Historic Preservation Division and any other letters of clearance required pursuant to the National Historic Preservation Act 1996, as amended.
16. Photo simulations and, if required, the photographic results of the site-located height model ~~or balloon test.~~
17. Propagation maps showing the cellular coverage that the site will provide.
18. A written report indicating the applicant's efforts to secure shared use or co-location with existing towers, other structures or alternative technology or

buildings within the town of Mesilla and neighboring areas within the town of Las Cruces and Dona Ana County. Copies of written requests and responses for shared use shall be provided to the PZHAC along with the application for a special use permit.

**Q. ~~E.~~ Demonstration of Need.** An applicant shall submit to the PZHAC documentation that demonstrates the need for the WTF to provide service within the geographical area proposed to be serviced by such WTF. The documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.

**R. ~~D.~~ Separation Distances.** When a second tower is proposed near an existing tower, there shall be a minimum separation distance between them of not less than the combined height of the existing tower and the proposed tower, which distance shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The same separation distance shall apply when more than one tower is proposed at one location.

**S. ~~E.~~ Security Fencing.** Towers shall be enclosed by a security fence or wall not less than six feet in height which is equipped with an appropriate anti-climbing device other than barbed or other cutting wire.

**T. ~~F.~~ Screening.** WTFs shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

**U. ~~G.~~ Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer. [Ord. 2003-10 § 7]**

**18.54.080 Buildings or other equipment storage.**

The following requirements shall apply to the buildings and all other equipment storage space associated with a WTF requiring a special use permit:

A. The related unmanned equipment structure or cabinet, being part of the WTF, used in association with an antenna(s) located on a tower shall not contain more than 120 square feet of gross floor areas or be more than 10 feet in height and shall be located in accordance with the minimum yard requirements of the zone in which it is located.

B. Such equipment structures or cabinets shall comply with all applicable building codes.

C. Security lighting, if required, shall not exceed 12 feet in height and the location of the lighting fixture together with its cut-off angle shall be such that it does not shine directly on any public right-of-way or any residential premises. [Ord. 2003-10 § 8]

#### **18.54.090**

##### **Application review and inspection fee.**

A. Initial Review. Upon their acceptance of an application that appears to be complete, the town planning official shall transmit the application to the Town of Mesilla for initial review.

The Town of Mesilla shall then conduct an initial review to consider whether or not to establish itself as lead agency pursuant to NEPA and whether or not a use or area variance is required for the proposed application such that a referral for an application to the Town of Mesilla will be required to be made after the Town of Mesilla has declared itself to serve as lead agency and during the process of the planning Town of Mesilla considering a NEPA determination of environmental significance. That consideration of granting any required variances by the Town of Mesilla is done concurrently with the Town of Mesilla's review and consideration of special use permit and site plan approval.

The Town of Mesilla shall then conduct a public hearing upon each application, and render its determinations in accord with Sections 18.54.040 and shall ultimately determine whether or not to grant each applicant a special use permit and/or site plan approval.

An application review and engineering inspection fee of 15 percent of the total estimated cost of the installation of the tower and antenna(s) shall be paid by the applicant upon filing of an application for a special use permit with the town. This fee shall be deposited in an escrow account and it shall be used to reimburse the town for all reasonable costs of expert services for evaluation and consultation to the town in connection with the review of the application and the construction of the site once the WTF is permitted. In the event the amount held in escrow by the town is more than the amount of the actual invoicing for consultant and expert services for work performed through the date of issuance of a certificate of compliance for the project, the remaining balance shall be promptly refunded to the applicant. In the event the amount is less than the amount of actual invoicing, the town shall rely on MTC 18.85.140(B) of the zoning regulations and standards, which permits charging additional review fees. [Ord. 2003-10 § 9]

~~18.54.090~~ Application review and inspection; plus independent consultant/vendors/experts fees deposit, or Dona Ana County ESRI location system, which are contracted by the Town of Mesilla and amount determined by Town of Mesilla. Expenses are to be covered by applicant.

Application requirements.

Retention of consultants.

A. Use of Consultants. Where deemed reasonably necessary by the Town of Mesilla and/or the town, the Town of Mesilla and/or the town may retain the services of independent professional consultants to assist the Town of Mesilla in carrying out its duties in deciding special use permit applications for personal wireless service facilities. Where the Town of Mesilla uses the services of private engineers, attorneys, or other consultants for purposes of engineering, scientific, land use planning, environmental, legal, or similar professional reviews of the adequacy or substantive aspects of applications, or of issues raised during the course of review of applications for special use permit approvals of personal wireless service facilities, the applicant and landowner, if different, shall be jointly and severally responsible for payment of all the reasonable and necessary costs incurred by the town for such services. In no event shall that responsibility be greater than the actual cost to the town of such engineering, legal, or other consulting services.

B. Advance Deposits for Consultant Costs. The town and/or Town of Mesilla may require advance periodic monetary deposits held by the town on account of the applicant or landowner to secure the reimbursement of the town's consultant expenses. The town council shall establish policies and procedures for the fixing of escrow deposits and the management of payment from them. After audit and approval of itemized vouchers by the town comptroller as to reasonableness and necessity of the consultant charges, the town may make payments from the deposited funds for engineering, legal or consultant services. Upon receiving a request by the applicant or landowner, the town shall supply copies of such vouchers to the applicant and/or landowner reasonably in advance of audit and approval, appropriately redacted where necessary to shield legally privileged communications between town officers or employees and the town's consultant. When it appears that there may be insufficient funds in the account established for the applicant or landowner by the town to pay current or anticipated vouchers, the town shall cause the applicant or landowner to deposit additional sums to meet such expenses or anticipated expenses in accordance with policies and procedures established by the town council. Consultants shall undertake no review on any matter scheduled before the Town of Mesilla until the initial escrow deposit has been made or requested replenishment of the escrow deposit has been made. No reviewing agency shall be obligated to proceed unless the applicant complies with escrow deposit requirements. This is in addition to 15% application fee.

C. Reasonable Limit Upon Consultant Expenses. A consultant expense or part thereof is reasonable in amount if it bears a reasonable relationship to the customary fee charged by engineers, attorneys, or planners within the region for services performed on behalf of applicants or reviewing Town of Mesillas in connection with comparable applications for land use or development.

The town may also take into account any special conditions for considerations as it may deem relevant, including but not limited to the quality and timeliness of submissions on behalf of the applicant and the cooperation of the applicant and agents during the review process.

A consultant expense or part thereof is necessarily incurred if it was charged by the engineer, attorney or planner, or other consultants, for a service which was rendered to assist the Town of Mesilla in: (1) making factual determinations consistent with the goals of protecting or promoting the health, safety or welfare of the town or its residents; (2) assessing potential adverse environmental impacts such as those identified within a SEPA process; (3) accessing potential adverse impacts to historic properties, structures and/or zones, and/or (4) assessing and determining factual issues relevant to effective prohibition claims, as addressed herein, to enable the Town of Mesilla to best comply with the letter and intent of the provision of the TCA which is relevant thereto.

D. Audits Upon the Request of an Applicant. Upon request of the applicant or landowner, the town council shall review and audit all vouchers and determine whether such engineering, legal and consulting expenses are reasonable in amount and necessarily incurred by the town in connection with the review and consideration of a special use permit application for personal wireless service facility. In the event of such a request, the applicant or landowner shall be entitled to be heard by the town council on reasonable advance notice.

E. Liability for Consultant Expenses. For a land-use application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal, and other consulting fees incurred by the town. If different from the applicant, the owner(s) of the subject real property shall be jointly and severally responsible for reimbursing the town for funds expended to compensate services rendered to the town under this section by private engineers, attorneys, or other consultants. The applicant and the owner shall remain responsible for reimbursing the town for its consulting expenses, notwithstanding that the escrow account may be insufficient to cover such expenses. No building permit or other permit shall be issued until reimbursement of costs and expenses determined by the town to be due. In the event of failure to reimburse the town for such fees, the following shall apply:

The town may seek recovery of unreimbursed engineering, legal, and consulting fees by court action in an appropriate jurisdiction, and the defendant(s) in such actions shall be responsible for the reasonable and necessary attorney's fees expended by the town in prosecuting such action.

Alternatively, and at the sole discretion of the town, a default in reimbursement of such engineering, legal and consulting fees expended by the town shall be remedied by charging such sums against the real property that is the subject of the special use permit application, by adding that charge to and making it a part of the next annual real property tax assessment roll of the town. Such charges shall be levied and collected simultaneously and in the same manner as town-assessed taxes and applied in reimbursing the fund from which the costs were defrayed for the engineering, legal and consulting fees. Prior to charging such assessments, the

owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the town council to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.

#### **18.54.100**

##### **Performance security bond.**

**A.** The applicant and the owner of record of any proposed WTF property site shall, at its cost and expense, be jointly required to execute and file with the town a bond or other form of security acceptable to the town as to type of security and the form and manner of execution, in the amount of at least \$75,000 to assure the faithful performance of the terms and conditions of this chapter and the conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect through the term of the special use permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original special use permit. [Ord. 2003-10 § 10]

**B. Bond Requirement.** At or prior to the filing of an application for a special use permit for the installation of a new personal wireless service facility, each respective applicant shall provide a written estimate for the cost of the decommissioning and removal of the facility, including all equipment that comprises any portion or part of the facility, compound and/or complex, as well as any accessory facility or structure, including the cost of the full restoration and reclamation of the site, to the extent practicable, to its condition before development in accord with the decommissioning and reclamation plan required herein. The Town of Mesilla's engineer shall review this estimate.

Upon receiving a special use permit approval from the Town of Mesilla, and a building permit, prior to the commencement of installation and/or construction of such facility or any part thereof, the applicant shall file with the town a bond for a length of no less than three years in an amount equal to or exceeding the estimate of the cost of removal of the facility and all associated structures, fencing, power supply, and other appurtenances connected with the facility. The bond must be provided within 30 days of the approval date and before any installation or construction begins.

Replacement bonds must be provided 90 days prior to the expiration of any previous bond.

At any time the town has good cause to question the sufficiency of the bond at the end of any three-year period, the owner and/or operator of the facility, upon request by the town, shall provide an updated estimate and bond in the appropriate amount.

Failure to keep the bonds in effect is cause for removal of the facility at the owner's expense. A separate bond will be required for each facility, regardless of the number of owners or the location.

**18.54.110 Liability insurance.**

A. A holder of a special use permit for a WTF shall secure and at all times maintain public liability insurance for personal injuries, death and property damage and umbrella insurance coverage for the duration of the special use permit in the following amounts:

1. Commercial general liability covering personal injuries, death and property damage and automobile coverage each at \$1,000,000 per occurrence and \$2,000,000 aggregate and the commercial liability policy shall specifically include the town as an additional named insured.
2. Workers' compensation at not less than minimum statutory limits.

B. The insurance policies shall be issued by an insurance agent of an insurance company licensed to do business in the state of New Mexico with a Best's rating of at least A and shall contain an endorsement obligating the insurance company to furnish the town with at least 30 days prior written notice in advance of the cancellation of the insurance. Renewal or replacement policies or certificates shall be delivered to the town at least 15 days before the expiration of the insurance that the policies are to renew or replace.

C. The holder of a special use permit for a WTF shall deliver to the town a copy of each of the policies or certificates representing the insurance in the required amounts before construction of the permitted WTF is initiated. [Ord. 2003-10 § 11]

**18.54.120 Indemnification.**

Any application for a WTF that is proposed for town property pursuant to this chapter shall contain an indemnification provision. Such indemnification provision shall require the applicant, to the extent permitted by the law, to at all times indemnify and hold harmless the town of Mesilla from and against all claims, liabilities, damages, losses and expenses, including attorneys' fees, which might arise out of or be caused by the performance of work in the location, construction, modification, use, maintenance, repair, replacement or removal of the WTF, which causes contract bodily injury, illness or death or any other injury or for property damage caused by the negligent act or omission of the owner/operator/applicant of the WTF. [Ord. 2003-10 § 12]

**18.54.130 Removal of a wireless telecommunications facility.**

A. Under the following circumstances, the town may determine that the health, welfare and safety of the town residents warrant and require the removal of a WTF:

1. A permitted WTF has not been operated as a WTF for a continuous period of six months and is therefore considered to have been abandoned;
2. A permitted WTF falls into such a state of disrepair that it creates a health or safety hazard as determined by town staff;
3. A WTF has been located, constructed or modified without first obtaining, or in a manner not authorized by, the required special use permit.

B. If the town makes such a determination as appears in subsection (A) of this section, then the town shall provide the owner of such WTF with a notice of abandonment and an order to remove the same within 90 days of receipt of the notice of abandonment from the town.

C. Failure by the owner or his successors or assigns to remove the abandoned WTF and all associated structures and facilities from the site and to restore the site to as close to its original conditions as is possible or to take substantial steps toward removing the abandoned WTF within said 90 days shall be grounds to remove the WTF at the owner's expense. [Ord. 2003-10 § 13]

D. Removal of Abandoned Facilities. Any personal wireless service facility that is not operated or used for a continuous period of 6 consecutive months shall be considered abandoned. At the owner's expense, the owner of said facility shall be required to remove the facility and all associated equipment buildings, power supply, fence, and other items associated with such facility, compound and/or complex, and permitted with, the facility.

If the facility is not removed within 90 days, the bond secured by the facility owner shall be used to remove the facility and any accessory equipment and structures.

**18.54.140 Required annual report.**

In conjunction with the annual renewal of their business registration, the owner of each WTF shall submit a report to the Town of Mesilla, Town Clerk, PO Box 10, Mesilla, NM 88046, stating the current user status of the tower and providing proof of renewal of the insurance policies or certificates required pursuant to MTC [18.54.110](#). [Ord. 2003-10 § 14]

**18.54.150 Provision for waiver or variance.**

A. An administrative waiver of up to a 10 percent difference, except for height, or a variance for over a 10 percent difference, except for height, may be requested by the applicant at the time of filing for the special use permit. The conditions regulating the process for waiver and variance requests are set forth in Chapter [18.85](#) MTC, Article I, and shall apply in this chapter.

B. In instances where strict compliance with this chapter would result in a violation of a clearly established, applicable provision of the Telecommunications Act of 1996 or other federal law or regulation, a minimal easing of the provision of this chapter may be granted by the board of adjustment to the extent required to comply with such law. [Ord. 2003-10 § 15]

**18.54.160 Penalty.**

Any person who violates any provision of this chapter or any special use permit issued pursuant to this chapter shall be charged with a petty misdemeanor and upon conviction may be punished by a fine of not more than \$500.00 or imprisonment for not more than 90 days or both such fine and imprisonment as provided for in MTC Title [1](#). [Ord. 2003-10 § 16]

**18.54.170 Default and/or revocation.**

A. If a WTF is repaired, rebuilt, placed, moved or modified in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the town shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation(s) or noncompliance and that action to begin correction of the violation(s) must be commenced within seven days of the date of the postmark or personal service of the notice, whichever is earlier, and completed within 45 days of such date. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes or presents an imminent danger to the health or safety of lives or property, the town may, at its sole discretion, order the violation remedied within 24 hours.

B. If within the 45-day time period set forth in subsection (A) of this section, the WTF is not brought into compliance with the provisions of this chapter or of the special use permit, or substantial steps are not taken in order to bring the affected WTF into compliance, then the town may revoke such special use permit for the affected WTF and shall notify the holder of the special use permit within 48 hours of such action. [Ord. 2003-10 § 17]

**18.54.180 Eleventh hour submissions.**

In the event that an applicant tenders eleventh hour submissions to the town and/or the Town of Mesilla in the form of (1) expert reports, (2) expert materials, and/or (3) materials which require a significant period for review due either to their complexity or the sheer volume of materials which an applicant has chosen to provide to the Town of Mesilla at such late point in the proceedings, the Town of Mesilla shall be afforded a reasonable time to review such late-submitted materials.

If reasonably necessary, the Town of Mesilla shall be permitted to retain the services of an expert consultant to review any late-submitted expert reports which were provided to the Town of Mesilla, even if such review or services extend beyond the applicable shot clock period, so long as the Town of Mesilla completes such review and retains and secures such expert

services within a reasonable period of time thereafter, and otherwise acts with reasonable diligence in completing its review and rendering its final decision.

**18.54.190 Prohibition against illegally excessive emissions and RF radiation testing.**

In accord with the same, the town enacts the following RF radiation testing requirements and provisions set forth herein below.

No wireless telecommunications facility shall at any time be permitted to emit illegally excessive RF radiation as defined in Section 18.54.020, or to produce power densities that exceed the legally permissible limits for electric and magnetic field strength and power density for transmitters, as codified within 47 CFR 1.1310(e)(1), Table 1, Sections (i) and (ii), as made applicable pursuant to 47 CFR 1.1310(e)(3).

To ensure continuing compliance with such limits by all owners and/or operators of personal wireless service facilities within the town, all owners, and operators of personal wireless service facilities shall submit reports as required by this section.

As set forth hereinbelow, the town may additionally require, at the owner and/or operator's expense, independent verification of the results of any analysis set forth within any reports submitted to the town by an owner and/or operator.

If an operator of a personal wireless service facility fails to supply the required reports or fails to correct a violation of the legally permissible limits described hereinabove, following notification that their respective facility is believed to be exceeding such limits, any special use permit or other zoning approval granted by the Town of Mesilla or any other Town of Mesilla or representative of the town is subject to modification or revocation by the Town of Mesilla following a public hearing.

A. Initial Certification of Compliance With Applicable RF Radiation Limits. Within 45 days of initial operation or a substantial modification of a personal wireless service facility, the owner and/or operator of each telecommunications antenna shall submit to the town planning official a written certification by a licensed professional engineer, sworn to under penalties of perjury, that the facility's RF emissions comply with the limits codified within 47 CFR 1.1310(e)(1), Table 1, Sections (i) and (ii), as made applicable pursuant to 47 CFR 1.1310(e)(3).

The engineer shall measure the emissions of the approved facility, including the cumulative impact from other nearby facilities, and determine if such emissions are within the limits described hereinabove.

A report of these measurements and the engineer's findings with respect to compliance with the FCC's maximum permissible exposure (MPE) limits shall be submitted to the town planning official.

If the report shows that the facility does not comply with applicable limits, then the owner and/or operator shall cease operation of the facility until the facility is brought into compliance with such limits. Proof of compliance shall be a certification provided by the engineer who prepared the original report. The town may require, at the applicant's expense, independent verification of the results of the analysis.

B. Random RF Radiofrequency Testing. At the operator's expense, the town may retain an engineer to conduct random unannounced RF radiation testing of such facilities to ensure the facility's compliance with the limits codified within 47 CFR 1.1310(e)(1) et seq.

The town may cause such random testing to be conducted as often as the town may deem appropriate. However, the town may not require the owner and/or operator to pay for more than one test per facility per calendar year unless such testing reveals that one or more of the owner and/or operator's facilities are exceeding the limits codified within 47 CFR 1.1310(e)(1) et seq., in which case the town shall be permitted to demand that the facility be brought into compliance with such limits, and to conduct additional tests to determine if, and when, the owner and/or operator thereafter brings the respective facility and/or facilities into compliance.

The engineer conducting any such testing shall measure the emissions from such facilities, including, but not limited to, the emissions from any individual facility as well as the cumulative emissions from multiple transmitters/facilities which are placed upon the same supporting structure or nearby structures to ascertain whether or not such facility or facilities are individually or cumulatively exposing members of the general public to emissions which exceed the permissible general population exposure limits, or occupational exposure limited, which have been set and/or approved by the FCC.

If the town at any time finds that there is good cause to believe that a personal wireless service facility and/or one or more of its antennas are emitting RF radiation at levels in excess of the legal limits permitted under 47 CFR 1.1310(e)(1) et seq., then a hearing shall be scheduled before the Town of Mesilla at which the owner and/or operator of such facility shall be required to show cause why any and all permits and/or approvals issued by the town for such facility and/or facilities should not be revoked, and a fine should not be assessed against such owner and/or operator.

Such hearing shall be duly noticed to both the public and the owner and/or operator of the respective facility or facilities at issue. The owner and/or operator shall be afforded not less than two weeks' written notice by first-class mail to its notice address.

At such hearing, the burden shall be on the town to show that, by a preponderance of the evidence, the facilities' emissions exceeded the permissible limits under 47 CFR 1.1310(e)(1) et seq.

In the event that the town establishes same, the owner and/or operator shall then be required to establish, by clear and convincing evidence, that a malfunction of equipment caused their failure to comply with the applicable limits through no fault on the part of the owner/operator.

If the owner and/or operator fails to establish same, the Town of Mesilla shall have the power to, and shall revoke any special use permit, variance, building permit, and/or any other form of zoning-related approval(s) which the Town of Mesilla, town planning official and/or any other representative of the town may have then issued to the owner and/or operator, for the respective facility.

In addition, the Town of Mesilla shall impose a fine of not less than \$10,000, nor more than \$15,000 for such violation of subsection (A) of this section, or, in the case of a second offense within less than five years, a minimum fine of \$20,000, nor more than \$30,000.

In the event that an owner or operator of one or more personal wireless service facilities is found to violate subsection (A) of this section, three or more times within any five-year period, then in addition to revoking any zoning approvals for the facilities which were violating the limits codified in 47 CFR 1.1310(e)(1) et seq., the Town of Mesilla shall render a determination within which it shall deem the owner/operator prohibited from filing any applications for any new wireless personal services facilities within the town for a period of five years.

#### **18.54.200 Factual determinations to be rendered by the Town of Mesilla.**

A. Evidentiary Standards. In determining special use permit applications for personal wireless service facilities, the Town of Mesilla shall have sole discretion to determine what probative evidence it shall require each applicant to produce in support of its application to enable the Town of Mesilla to make each of the factual determinations enumerated below.

Common examples of the types of evidence which the Town of Mesilla may require an applicant to produce are the following:

1. Where an applicant is not the owner of the real property upon which it proposes to install a new wireless facility, the Town of Mesilla can require the applicant to provide a copy of the applicant's lease with the property owner (including any schedules, property descriptions, appendices or other attachments), from which the applicant may censor or delete any financial terms which would be irrelevant to the factual issues which the Town of Mesilla is required to determine;

2. Where the Town of Mesilla deems it appropriate, the Town of Mesilla can require the applicant to perform what is commonly known as a “height model test” and to require the applicant to publish reasonably sufficient advance public notice of same, to enable the Town of Mesilla, property owners, and the community, an opportunity to assess the actual adverse aesthetic impact which the proposed facility is likely to inflict upon the nearby properties and surrounding community;

3. Where the applicant asserts a claim that a proposed facility is necessary to remedy one or more existing significant gaps in an identified wireless carrier’s personal wireless services, the Town of Mesilla may require the applicant to provide drive-test generated coverage maps, as opposed to computer-generated coverage maps, for each frequency at which the carrier provides personal wireless services, to show signal strengths in bins of three DBM each, to enable the Town of Mesilla to assess the existence of such significant gaps accurately, and/or whether the carrier possesses adequate coverage within the geographic area which is the subject of the respective application;

4. Where the applicant asserts that a potential less intrusive alternative location for a proposed facility is unavailable because the owner of the potential alternative site is incapable or unwilling to lease space upon such site to the applicant, the Town of Mesilla may require the applicant to provide proof of such unwillingness in the form of communications to and from such property owner, and/or a sworn affidavit wherein a representative of the applicant affirms, under penalty of perjury, that they attempted to negotiate a lease with the property owner, what the material terms of any such offer to the property owner were, when the offer was tendered, and how, if at all, the property owner responded to such offer.

The Town of Mesilla shall have sole discretion to determine, among other things, the relevance of any evidence presented, the probative value of any evidence presented, the credibility of any testimony provided, whether expert or otherwise, and the adequacy of any evidence presented.

The Town of Mesilla shall not be required to accept, at face value, any unsupported factual claims asserted by an applicant but may require the production of evidence reasonably necessary to enable the Town of Mesilla to determine the accuracy of any factual allegations asserted by each respective applicant.

Conclusory factual assertions by an applicant shall not be accepted as evidence by the Town of Mesilla.

B. Factual Determinations. To decide applications for special use permits under this section, the Town of Mesilla shall render factual determinations, which shall include two specific types of factual determinations, as applicable.

First, the Town of Mesilla shall render local zoning determinations according to subsection (B)(1) of this section.

Then, if, and only if, an applicant asserts claims that: (1) its proposed wireless facility or installation is necessary to remedy a significant gap in personal wireless services for an explicitly identified wireless carrier, and (2) that its proposed installation is the least intrusive means of remedying a specifically identified significant gap or gaps, the Town of Mesilla shall additionally render TCA determinations, in accord with subsection (B)(2) of this section.

The Town of Mesilla shall separately record each factual determination it makes in a written decision and shall reference, or make note of, the evidence based upon which it rendered each of its factual determinations.

Each factual determination made by the Town of Mesilla shall be based upon substantial evidence.

For purposes of this provision, “substantial evidence” shall mean such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It means less than a preponderance but more than a scintilla of evidence.

Evidence which the Town of Mesilla may consider shall include any evidence submitted in support of an application, and any evidence submitted by anyone opposing a respective application, whether such evidence is in written or photographic form, or whether it is in the form of testimony by any expert, or any person who has personal knowledge of the subject of their testimony. The Town of Mesilla may, of course, additionally consider as evidence any information or knowledge which they, themselves, personally possess, and any documents, records or other evidence which is a matter of public record, irrespective of whether such public record is a record of the town, or is a record of or is maintained by, another federal, state and/or other governmental entity and/or agency which maintains records which are available for, or subject to, public review.

The requirements for specific factual determinations set forth below are intended to inure to the benefit of the town, its residents, and property owners, and not applicants.

If, and to the extent that, the Town of Mesilla fails to render one or more of such determinations, that omission shall not constitute grounds upon which the respective applicant can seek to annul, reverse or modify any decision of the Town of Mesilla.

1. Local Zoning Determinations. The Town of Mesilla shall make the following factual determinations as to whether the application meets the requirements for granting a special use permit under this chapter:

a. Compliance With Chapter 18.36. Whether the proposed installation will meet each of the conditions and standards set forth within Chapter 18.36 in the absence of which the Town of Mesilla is not authorized to grant a special use permit.

b. Potential Adverse Aesthetic Impacts. Whether the proposed installation will inflict a significant adverse aesthetic impact upon properties that are located adjacent to, or in close proximity to, the proposed site, or any other properties situated in a manner that would sustain significant adverse aesthetic impacts by the installation of the proposed facility.

c. Potential Adverse Impacts Upon Real Estate Values. Whether the proposed installation will inflict a significant adverse impact upon the property values of properties that are located adjacent to, or in close proximity to, the proposed site, or properties that are otherwise situated in a manner that would cause the proposed installation to inflict a significant adverse impact upon their value.

d. Potential Adverse Impact Upon the Character of the Surrounding Community. Whether the proposed installation will be incompatible with the use and/or character of properties located adjacent to, or in close proximity to, the proposed site or other properties situated in a manner that would cause the proposed installation to be incompatible with their respective use.

e. Potential Adverse Impacts Upon Historic Properties or Historic Districts, HR and HC zones. Whether the proposed installation will be incompatible with and/or would have an adverse impact upon, or detract from the use and enjoyment of, and/or character of a historic property, historic site, and/or historic district, including but not limited to historic structures, properties and/or districts which are listed on, or are eligible for listing on, the National Register of Historic Places.

f. Potential Adverse Impacts Upon Ridgelines or Other Aesthetic Resources of the Town. Whether the proposed installation will be incompatible with and/or would have an adverse aesthetic impact upon or detract from the use and enjoyment of, and/or character of, recognized aesthetic assets of the town including, but not limited to, scenic areas and/or scenic ridgelines, public parks, and/or any other traditionally or historically recognized valuable scenic assets of the town.

g. Sufficient Fall Zones. Whether the proposed installation shall have a sufficient fall zone and/or safe zone around the facility to afford the general public safety against the potential dangers of structural failure, icfall, debris fall, and fire.

h. Most Preferred Site on Hierarchy. Whether the site chosen by the applicant for its proposed facility is situated in the most preferred district within the hierarchy of preferred districts set forth within Section 18.23.220, and whether the applicant has established before the Town of

Mesilla that it is not feasible for the applicant's proposed new facility to be siting in a more preferred district listed within such section.

i. Mitigation. Whether the applicant has mitigated the potential adverse impacts of the proposed facility to the greatest extent reasonably feasible. To determine mitigation efforts on the part of the applicant, the mere fact that a less intrusive site, location, or design would cause an applicant to incur additional expense is not a reasonable justification for an application to have failed to propose reasonable mitigation measures.

If when applying the evidentiary standards set forth in subsection (B)(1) of this section, the Town of Mesilla determines that the proposed facility would not meet the standards set forth within Chapter 18.36, or that the proposed facility would inflict one or more of the adverse impacts described hereinabove to such a substantial extent that granting the respective application would inflict upon the town and/or its citizens and/or property owners the types of adverse impacts which this provision was enacted to prevent, the Town of Mesilla shall deny the respective application for a special use permit unless the Town of Mesilla additionally finds that a denial of the application would constitute an effective prohibition, as provided for in subsections (B)(2) and (3) of this section.

2. TCA Determinations. In cases within which an applicant has filed a "notice of effective prohibition conditions," the Town of Mesilla shall make three additional factual determinations, as listed herein below:

a. Adequate Personal Wireless Services Coverage. Whether the specific wireless carrier has adequate personal wireless services coverage within the geographic areas for which the applicant claims a significant gap exists in such coverage.

b. Significant Gap in Personal Wireless Services of an Identified Carrier. Whether the applicant has established, based upon probative evidence provided by the applicant and/or its representative, that a specific wireless carrier suffers from a significant gap in its personal wireless services within the town.

In rendering such determination, the Town of Mesilla shall consider factors including, but not necessarily limited to: (1) whether the identified wireless carrier which is alleged to suffer from any significant gap in their personal wireless services has adequate service in its personal wireless services at any frequency being used by the carrier to provide personal wireless services to its end-use customers, (2) whether any such alleged gap is relatively large or small in geographic size, (3) whether the number of the carrier's customers affected by the gap is relatively small or large, (4) whether or not the location of the gap is situated on a lightly traveled road, or sparsely or densely occupied area, and/or (5) overall, whether the gap is relatively insignificant or otherwise relatively de minimis.

A significant gap cannot be established simply because the carrier's customers are currently using the carrier's personal wireless services, but the frequency at which the customers are using such services is not the frequency most desired by the carrier.

c. Least Intrusive Means of Remedying Gap(s) in Service. Whether the applicant has established based upon probative evidence provided by the applicant and/or its representative, that the installation of the proposed facility, at the specific site proposed by the applicant, and the specific portion of the site proposed by the applicant, and at the specific height proposed by the applicant is the least intrusive means of remedying whatever significant gap or gaps which the applicant has contemporaneously proved to exist as determined by the Town of Mesilla based upon any evidence in support of, and/or in opposition to, the subject application.

In rendering such determination, the Town of Mesilla shall consider factors including, but not necessarily limited to: (1) whether the proposed site is the least intrusive location at which a facility to remedy an identified significant gap may be located, and the applicant has reasonably established a lack of potential alternative less intrusive sites and lack of sites available for colocation, (2) whether the specific location on the proposed portion of the selected site is the least intrusive portion of the site for the proposed installation, (3) whether the height proposed for the facility is the minimum height actually necessary to remedy an established significant gap in service, (4) whether or not a pre-existing structure can be used to camouflage the facility and/or its antennas, (5) whether or not, as proposed, the installation mitigates adverse impacts to the greatest extent reasonably feasible, through the employ of stealth design, screening, use of color, noise mitigation measures, etc., and/or (6) overall whether or not there is a feasible alternative to remedy the gap through alternative, less intrusive substitute installations, such as the installation of multiple shorter installations, instead of a single microcell facility.

3. Finding of Effective Prohibition or Lack of Effective Prohibition. If when applying the evidentiary standards set forth in subsection (B)(1) of this section, the Town of Mesilla affirmatively determines that the applicant has failed to establish either: (a) that an identified wireless carrier suffers from a significant gap(s) in its personal wireless services within the town, and/or (b) that the applicant has failed to establish that the proposed installation is the least intrusive means of remedying any such gap or gaps, then the Town of Mesilla may deny the application pursuant to subsection (B)(2) of this section, and such denial shall not constitute an "effective prohibition."

If when applying the evidentiary standards set forth in subsection (B)(1) of this section, the Town of Mesilla affirmatively determines that the applicant has established both: (a) that an identified wireless carrier suffers from a significant gap in personal wireless services within the town, and (b) that the proposed installation is the least intrusive means of remedying such significant gap or gaps, then the Town of Mesilla shall grant the application, irrespective of any determinations the Town of Mesilla may make pursuant to subsection (B)(2) of this section, because any such denial would constitute an "effective prohibition."

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The Mesilla Town Code is current through Ordinance 2021-03, passed December 30, 2021.

Disclaimer: The town clerk's office has the official version of the Mesilla Town Code. Users should contact the town clerk's office for ordinances passed subsequent to the ordinance cited above.

Town Website: <http://www.mesillanm.gov/> Town Telephone: (575) 524-3262  
Codification services provided by [General Code](#)

### **18.54.210 General provisions.**

A. Balancing of Interests. The town formally recognizes that, as has been interpreted by federal courts, when it enacted the TCA, Congress chose to preserve local zoning authority over decisions regarding the placement, construction, and modification of personal wireless facilities (47 U.S.C. § 332(c)(7)(A)) subject only to the limitations set forth in 47 U.S.C. § 332(c)(7)(b), consistent with the holding of the United States Court of Appeals in *Sprint Spectrum L.P. v. Willoth*, 176 F3d 630 (2nd Cir., 1999), *Sprint Telephony PCS LP v. Town of San Diego*, 543 F3d 571 (9th Cir., 2008); *T-Mobile U.S.A. Inc. v. Town of Anacortes*, 572 F3d 987 (9th Cir., 2009), and their progeny, and the town has relied upon such federal courts' interpretations of the TCA in enacting this chapter.

The town similarly embraces the federal courts' determinations that the TCA was created to effectuate a balancing between the interests of facilitating the growth of wireless telephone service nationally and maintaining local control over the siting of wireless personal services facilities, as the court additionally articulated in *Omnipoint Communications Inc. v. The Town of White Plains*, 430 F3d. 529 (2nd Cir., 2005). This includes preserving to local governments, including the town, the power to deny applications for the installation of wireless personal services facilities, based upon traditional grounds of zoning denials, including, but not limited to, the potential adverse aesthetic impacts or a reduction in property values which the construction of any proposed structure may inflict upon nearby properties or the surrounding community.

This additionally includes the recognition that, under this balancing of interest test, "once an area is sufficiently serviced by a wireless service provider, the right to deny applications (for new wireless facilities) becomes broader," *Crown Castle NG East LLC v. The Town of Hempstead*, 2018 WL 6605857.

It is the intent of the town that this chapter be applied in a manner consistent with the balancing of interests codified within the TCA.

Consistent with same, the town rejects and shall reject any current and/or future FCC interpretations of any provision of the TCA which are clearly inconsistent with, and/or are clearly contrary to, both the language of the TCA and binding decisions of the United States Court of Appeals.

This includes a rejection of any FCC interpretations inconsistent with Willoth and any claims that the FCA legally prohibits the Town of Mesilla from denying a special use permit application, based solely upon a claim that an applicant desires the installation of its new facility for “densification” of its existing personal wireless services, or to offer a new service, irrespective of whether or not the carrier already possesses adequate coverage within the town, and irrespective of the potential adverse impact which the installation of such new facility or facilities would inflict upon the town, its property owners, citizens and/or communities.

B. Conflict With Federal or State Laws. To the extent that any provision of this chapter is found to conflict with any applicable federal or state law, it is the intent of the town that the remaining portion of this chapter which has not been found to conflict with such law be deemed to remain valid and in full force and effect.

#### **18.54.220 Shot clock periods.**

To comply with the requirements of 47 U.S.C. § 332(c)(7)(B)(ii) of the TCA, the following shot clock periods set forth herein below shall be presumed to be reasonable periods within which the Town of Mesilla shall render determinations upon special use permit applications for personal wireless service facilities.

The Town of Mesilla shall render determinations upon such applications within the periods set forth herein below, unless the applicable shot clock period list below is tolled, extended by agreement or the processing of the application is delayed due to circumstances beyond the Town of Mesilla and/or town’s control.

#### **18.54.230 Shot clock tolls, extensions and reasonable delay periods.**

Consistent with the letter and intent of 47 U.S.C. § 332(c)(7)(B)(ii) of the TCA, each of the shot clock periods set forth within Section shall generally be presumed to be sufficient periods within which the Town of Mesilla shall render decisions upon special use permit applications.

Notwithstanding same, the applicable shot clock periods may be tolled, extended by mutual agreement between any applicant and/or its representative and the Town of Mesilla, and the

Town of Mesilla shall not be required to render its determination within the shot clock period presumed to be reasonable for each type of application, where the processing of such application is reasonably delayed, as described hereinbelow.

A. Tolling of the Applicable Shot Clock Due to Incompleteness and/or Applicant Error. In the event that the town planning official deems an application incomplete, the town planning official shall send a notice of incompleteness to the applicant to notify the applicant that its application is incomplete and/or contains material errors, and shall reasonably identify the missing information and/or documents and/or the error(s) in the application.

If the Town of Mesilla mails a notice of incompleteness as described hereinabove, the applicable shot clock shall automatically be tolled, meaning that the applicable shot clock period within which the Town of Mesilla is required to render a final decision upon the application shall immediately cease running, and shall not resume running, unless and until the town receives a responsive submission from the applicant.

If and when the applicant thereafter submits additional information in an effort to complete its application, or cure any identified defect(s), then the shot clock shall automatically resume running, but shall not be deemed to start running anew.

The applicable shot clock period shall, once again, be tolled if the town planning official thereafter provides a second notice that the application is still incomplete or defective, despite any additional submissions which have been received by the town, from the applicant, up to that point.

B. Shot Clock Extension by Mutual Agreement. The Town of Mesilla, in its sole discretion, shall be free to extend any applicable shot clock period by mutual agreement with any respective applicant. This discretion on the part of the Town of Mesilla shall include the Town of Mesilla's authority to request, at any time and, for any period of time, the Town of Mesilla may deem reasonable or appropriate under the circumstances, consent from a respective applicant, to extend the applicable shot clock period, to enable the Town of Mesilla, the applicant, or any relevant third party, to complete any type of undertaking or task related to the review, analysis, processing, and determination of the particular application, which is then pending before the Town of Mesilla, to the extent that any such undertaking, task, or review is consistent with, or reasonably related to, compliance with any federal, state, or local law, and/or the requirements of any provision of the Municipal Code, including but not limited to this chapter.

In response to any request by the Town of Mesilla, the applicant, by its principal, agent, attorney, site acquisition agent, or other authorized representative can consent to any extension of any applicable shot clock, by affirmatively indicating its consent either in writing or by affirmatively indicating its consent on the record at any public hearing or public meeting. The Town of Mesilla shall be permitted to reasonably rely upon a representative of the applicant

indicating that they are authorized to grant such consent on behalf of the respective applicant, on whose behalf they have been addressing the Town of Mesilla within the hearing process.

C. Reasonable Delay Extensions of Shot Clock Periods. The town recognizes that there may be situations wherein, due to circumstances beyond the control of the town and/or the Town of Mesilla, the review and issuance of a final decision upon a special use permit application for a personal wireless facility cannot reasonably be completed within the application shot clock periods delineated within Section 18.23.040.

If, despite the exercise of due diligence by the town and the Town of Mesilla, the determination regarding a specific application cannot reasonably be completed within the applicable shot clock period, the Town of Mesilla shall be permitted to continue and complete its review, and issue its determination at a date beyond the expiration of the applicable period, if the delay of such final decision is due to circumstances including, but not limited to, those enumerated hereinbelow, each of which shall serve as a reasonable basis for a reasonable delay of the applicable shot clock period.