

Town of Mesilla, New Mexico

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

TUESDAY- AUGUST 12, 2025 @ 6PM
(Minutes)

COMMISSIONERS

- Eric Walkinshaw – Chairperson
- Eric Gallegos – Vice Chair
- Lori Miller – Secretary
- Martha Mulvihill – Commissioner
- Rosemary Alvillar – Commissioner
- Stevie Paz – Alt. Commissioner
- Mary Lucero – Alt. Commissioner

STAFF

- Eddie Salazar – Community & Economic Development (CED)
- Liana Aguirre – Historic Preservation Specialist
- Thomas Maese – NM Construction Industries Division
- Robert Cabello – Mesilla town attorney
- Andy Embury – Fire Marshal
- Ben Ascarate – Mesilla Marshal

PUBLIC

- | | |
|--------------------|------------------|
| Rob Cobelt | Maria Bernal |
| Rebecca Segovia | Sammy Bernal |
| Jeannie Lucero | Yolanda Lucero |
| Annette Granado | Andrea Bryan |
| Adrian Renteria | Greg Lester |
| Gil Tellez | Nora Barraza |
| Diego Caro | Ivonne Salazar |
| Bill & Janice Cook | Andy Embury |
| Ted Shelton | Mary Lee Shelton |

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL AND DETERMINATION OF A QUORUM

- | | |
|----------------------------|---------|
| Vice Chair Gallegos - | present |
| Commissioner Miller - | present |
| Chair Walkinshaw - | present |
| Commissioner Mulvihill - | present |
| Commissioner Alvillar - | present |
| Alt. Commissioner Paz - | present |
| Alt. Commissioner Lucero - | present |

Quorum established

3. CHANGES / APPROVAL OF AGENDA

1st motion to approve made by Vice Chair Gallegos

2nd motion to approve by Commissioner Mulvihill

Vice Chair Gallegos	yes
Commissioner Miller	yes
Commissioner Alvillar	yes
Commissioner Mulvihill	yes

4 – 0 Vote, Approved unanimously

4. PUBLIC INPUT

The public is invited to address the commission regarding items listed on the agenda as allowed by the chair. You can also email your comments to clerktreasurer@mesillanm.gov at least seventy-two (72) hours prior to the meeting.

03:35 *Gil Tellez* (Mr. Lowry son-in-law) – 2002-2003, Mr. Lowry was in negotiations in giving the subdivision road to Mr. Bernal. Mr. Bernal was deployed at this time yet Mr. Lowry still wanted to donate the road as he did with the property where the school is now, Mesilla Cir. Mr. Lowry and family intent was to donate that road so the families in that subdivision can make use of it. Believe, both families are entitled to the road if only they can come to an agreement to maintain it.

07:18 *Ted Shelton* (neighbor) – has lived in the Dan Lowry subdivision since 1978. Potentially the longest property owners of the Dan Lowry subdivision. The road is a prudent part of the subdivision. Dan Lowry was the developer and owned the road. At the time, the road did not meet the town's requirements so, the town would not take responsibility for it. Without the road, the subdivision couldn't exist. The road has been there the entire time we have lived there and use it to gain access to the back part of our property. Sold the back part of his property to someone else, and they use the road to access their property. There are lots that are adjacent to this road, some lots are the only means of access. It is how he is able to get to the back of his property, wood shop, trash picked up, etc.

11:32 In 2022, Mr. Shelton was stopped by a family member of the group that bought the road and was told he was not going to be able to drive through there no more. Stated as an engineer, he is familiar with the process of these types of projects and addressing the board as this one. He disagreed with the family prohibiting to use the road. This road is part of the approved subdivision. The town of Mesilla reviewed the subdivision along with this road and was approved as such, to give access to the lots. The other reason this road needs to be maintained is prescriptive easement. Should have a letter written by an attorney Matthew Holt, addressing those issues.

12:50 – *Chair Walkinshaw* – being on tract 7, which is Mesilla Cir and this road, how does he access the back part of his property.

13:25 – *Ted Shelton* – has a garage he accesses it from Mesilla Cir and a workshop in the back that uses the subdivision to access. Divided property by two and there is a property behind him (west) that would need to use the road. It is there only access.

14:17 – *Vice Chair Gallegos* – for clarification, is it the only access to your home/shop?

14:25 - *Ted Shelton* – has access to his property from Mesilla Cir and community road. But, there are other properties, that give them the only access.

15:03 – *Rebecca Segovia* – 2928 La Mesilla Cir, daughter (Annette Granado) read her notes. Objects to the proposal of the subdivision and the use of her road (See attached notes that were read).

20:41 – *Rebecca Segovia* - clarified a statement Mr. Shelton made about being blocked off. She admitted she did approach him about putting a fence. Never mentioned about blocking his entrance to his workshop.

21:25 *Vice Chair Gallegos* – asked, what is the difference between Mr. Shelton and Mr. Bernal?

21:45 *Rebecca Segovia* – there are one or two vehicles that go into his shop. Mr. Shelton does not maintain the road. Mr. Bernal is proposing a subdivision which would lead into more traffic. Mr. Bernal has been closed off with a fence for over 40 years. Her concern is she should not be responsible for maintaining a road for all that traffic. Lastly, Mr. & Mrs. Abruzzi live all the way in the back, next to her and they do need to get to their home using the road.

23:04 – *Yolanda Lucero* – 2392 Calle de Parian, have lived in that area a long time so knows exactly what is going on. She took part of No. 2 replat Dan Lowry subdivision which is to the west and followed all the rules.

Stated she checked with the utility company and was told no utilities run through there (the road). All utilities run on the west side. Talked with the engineer of El Paso electric and was told no one has the right to access the property without owner consent.

Reiterated what she said last time in January, PZHAC had a work session regarding this subdivision request with you all newly reappointed. Asked if commissioner understands how to review the case/code. Mr. Bernal is the one who should be presenting the case, not Mr. Salazar per code. An alternate requires two lots not 3 as per code. Questioned commissioners and Mr. Salazar if they have experience and knowledge on how to do a subdivision. An alternate summary subdivision is also known as a variance. Asked if the commission without a doubt prepared to vote and take responsibility on an illegal subdivision and affect the neighbors and families in the area.

All of title 17, subdivision ordinance was not followed. As far as she knows, it was never taken to the review board or any expertise prior to bringing it to PZHAC. She had to go through the variance board on her subdivision. Was approved for the alternate procedure because of her hardship.

Mr. Bernal in 2017 was told by commission that he needs to submit a set up plans showing access and turn around before moving forward. If Mr. Bernal doesn't have the money to follow the code and provide a road, he shouldn't be using someone else's property.

28:35 – *Nora Barraza* – stated the case has been confusing since the beginning. The case should be denied or postponed until Mr. Bernal shows a road to access his property. In his plans, it shows illegal ingress/egress. Mr. Salazar stated it is a civil matter that needs to be resolved before PZHAC consideration.

In 1984, Mrs. Barraza father purchased the property behind her house next to Mr. Bernal's property. Her father wanted to build a warehouse to move his business into and Mr. Bernal put up a fight and did not want it, so he did not. After, Yolanda approached Mr. Bernal and asked if he wanted to go half and half on a 30-foot road cause she know eventually he would want to split the road. Mr. Bernal said no. Mr. Bernal had an opportunity to get into his property and he did not take it.

When Mr. Lowry met with Rebecca, he never mentioned or was filed in the deed that property having an easement. Asked how can the commission approve a subdivision without an approved road. Mr. Bernal does not have approval to build a fence as it requires the neighbor's consent, and he does not.

33:40 – *Sam Bernal* – purchased the property in the front, 2615 Calle del Sur, in 1981. Mr. Woods used to own the property in the back and he purchased in 1986. Didn't use the road in the back because he wasn't the owner until 1986. After, had no use to using that road because he could use his property to go in and out of his back lot. Now that he is trying to subdivide, and have an opportunity for his kids to come back home. If the previous owner Mr. Woods wanted to build or subdivide, he would have used that back road. His house and the back lot are two distinctive lots.

Mrs. Fajardo sent an email also concerned about my case due to her owning property in that subdivision too. If one day she wants to use that road, is she going to be prohibited. How can one property owner in that subdivision control who gets to use the road and have access to their property? Read the code, that road was meant for Mr. Woods, and now that I purchased it, its meant for me too. Also, why did Mrs. Barraza's father's warehouse get denied? Because is zoned residential, not commercial zone and that is going on right now but is not complaining.

38:51 – *Chair Walkinshaw* – confirmed that Mr. Woods owned that building and parcel behind your house and was purchased by Mr. Bernal, in which he said yes.

39:10 – *Commissioner Mulvihill* – asked Mr. Bernal if it is a full subdivision or alternate summary subdivision, in which Mr. Bernal said, full subdivision. Commissioner Mulvihill stated she does not know how the subdivision is going to look like. No plat or plans.

40:00 - *Chair Walkinshaw* – pointed out plat No. 2, subdivide property on the west. That subdivision shows 2 properties, and could Mr. Salazar show the plans.

40:50 – *Mr. Salazar* stated he keeps hearing there are no plans or subdivision plats and pointed out on the packets the commissioners were given, the plans and plats. That is exactly what this is, he stated. Both the plans and plat created by an engineer and surveyor. They were reviewed by our town engineers, fire chief, and our town attorney.

The subdivision request is a unique case. It was started as an alternative summary subdivision but as we had our workshop and reviewed by engineers, staff, it has met all the conditions required for a full subdivision. Also, stated he kept hearing about access to his property using the road is private property and not have permission. Consulted with our town attorney and moving forward on their recommendations. If, I don't know, I consult with the people that do such as, attorney, engineers and fire chief.

5. APPROVAL OF CONSENT AGENDA

**Note: Items on the Consent Agenda, indicated by an asterisk (*), will be voted on with one motion unless the commissioner requests that a specific item be removed for discussion.*

- a. ***July 21, 2025, PZHAC Regular meeting minutes**
***August 4, 2025, PZHAC Hearing minutes**

1st motion to approve made by Commissioner Miller

2nd motion to approve by Commissioner Mulvihill

Vice Chair Gallegos	yes
Commissioner Miller	yes
Commissioner Alvillar	yes
Commissioner Mulvihill	yes

4 – 0 Vote, Approved unanimously

6. ACTION AND CONSIDERATION

- a. **SUBDIVISION CASE #061940** – 2615 Calle de Sur, submitted by Sam Bernal. Requesting a Alternative Summary Subdivision to subdivide his 1-acre parcel into 3 parcels. ZONE: Historical Residential – HR. (Hearing was held on 8/4/25).

1st motion to approve made by Vice Chair Gallegos

2nd motion to approve by Commissioner Alvillar

Mr. Salazar gave a summary of the case. When hearing public comments, broke his heart to be listing to a civil matter between both parties. The only thing we can do is based our decision on what we have in front of us. Mr. Bernal is requesting this subdivision and he consults with experts in those fields. If we are unsure, consideration needs to be based on what our experts are telling us. The road in question was approved to give access to some properties in that subdivision. Understand they have a civil issue; it is just not in Mesilla's purview to get involved.

Commissioner Gallegos – what is the requirements for the properties involved to have the safest access to the properties.

Andy Embury – if in theory the community road is not in play, the subdivision would require one of the following; a cul-de-sac, a hammer head or acceptable turn around or an alternative to the hammer head would require extra wide improved driveway.

If the private road was in play, the existing private road doesn't meet any of the fire department's new fire code.

Commissioner Lucero – asked if the utilities for the proposed subdivision going through the private road.

Adrian with A&E Engineering – commented, as submitted in the packet, the plans show the utilities coming from Calle del Sur and the fire hydrant will be on the right of way being fed from water source on Mesilla Cir. His understanding was, the road from Calle del Sur was going to be used as the main entrance and the road in the back only for emergencies.

Chair Walkinshaw – clarified according to the plans submitted, the main entrance would be the road south of the property and emergency egress out to Calle del Sur.

Commissioner Mulvihill – commented on the requests stating alternative summary subdivision but it is a full subdivision. Asked for clarification.

Mr. Salazar – it was initiated as an alternative summary subdivision but as we reviewed the case more and more, there were more requirements necessary being advised, either by fire or engineering. If you look at alternate section in our code, it was not followed. It doesn't even require a hearing or mail in notifications but we did, because we knew the request was asking more than what an alternative subdivision requires. Also, for the sake of transparency, we wanted to make sure everyone involved were notified.

The expectations for this subdivision has led to meeting all requirements for a full subdivision. Approving this subdivision will benefit neighboring properties. There is a critical need for a fire hydrant in the area. Currently, some of the properties are not protected. Also, a turnaround for the newest lots on the west could possibly not require a turnaround on their property. A storm drain gutter also being installed although not required to help with flooding. The comment about Mesilla representing and accruing expenses on the case to benefit Mr. Bernal is not true. Mr. Bernal is aware that he will be responsible as part of our code to pay for them. Those expense as per our code will be expected to be paid before the final plat is approved as per our code.

Commissioner Mulvihill asked is the case being considered as an alternate or full subdivision.

Mr. Salazar stated it is a unique case. It all depends how it is looked at. Our code does not specify what to do in this case. So, the need for a case by case consideration is needed. Are we going to disqualify an applicant's request based on how the process was handled?

It was mentioned that the 1977 subdivision was not stamped, and the one in the packet is stamped. The plat No.2 on the subdivision also shows the road and it is stamped as well.

Vice Chair Gallegos – asked how is it possible Mr. Lowry was able to deed the property over to someone else and not show it as a community road.

Mr. Salazar – stated as best as he can assume based on the information gathered, it is possible a preliminary plat was approved but not a final plat. Probably why the road was not finished and Mesilla is not maintaining it now. Possibly why there is a dispute between neighboring properties.

Commissioner Alvililar – we might not have the expertise but have personally been involved in the same type of procedure with all the land that my family owned. The most compelling comment was from Dan Lowry's rep is that is how Mr. Lowry intended it. That is a natural easement, if its been 40 years and no one has used it, that's still a community road. Just because Mr. Bernal didn't intend to use it in the past, he owns that property. If you go back and look up what land lock is, it is land locked.

We need to look at what is provided for us today because we do not know all the details on the civil issues. We also should take into consideration the testimony and recommendations from our experts in this case. Stated she is ready to make a motion.

Commissioner Lucero – on the general provisions for 17.05 on our town code says summary subdivision consist of no more than 2 parcels or a recombination of parcels. Directed a question to Mr. Maese. Based on the information we got in the packet, is it a legal subdivision? Seems to be a lot of inconsistencies.

Mr. Maese responded by saying he can't answer if it is a legal subdivision or not but there are a lot of discrepancies in the paperwork. As far as he can remember, the original plan was Ms. Segovia and Mr. Bernal were going to come to an agreement to use that secondary road. Most of the design, was based on that agreement. According to your subdivision regulations, if its going to be an alternative then can only have 2 lots. If you are going to do a full subdivision then you are aloud to do more than 2 lots.

Also stated, are the lots going to have enough room on the property to be able to build and meet all setbacks. Does agree it started as an alternative and seeing it being a full subdivision but doesn't see a lot of the design criteria needed or presented.

Chair Walkinshaw – stated the whole case on this proposed subdivision is following the original subdivision and then they did a replating 2003. Started out as tract 5 & 6 and then they subdivided. If you follow the logic, it seems like a replat #3.

Mr. Maese stated he doesn't know, he is not a developer. Not saying it is wrong but the case is controversial. It doesn't follow all the language.

Chair Walkinshaw an easement runs with land, you can't change that. So, if it is sold or deeded, that responsibility goes with the property.

Mr. Maese asked who is going to maintain the streets if it is a full subdivision.

Chair Walkinshaw stated that would be the easement maintenance agreement.

Mr. Maese commented there is still a lot of uncertainties, like he mentioned, who is going to take care of the road, clear site triangle. There's a lot of things that need to be looked at. Not trying to sway anybody's decision.

Commissioner Lucero – on page 5, it states after the final plat is approved, Mesilla assumes responsibility for care and maintenance.

Mr. Salazar – that is an explanation on why the applicant is requesting a variance. His property ingress and egress consist of private property. If subdivision infrastructure is required as mentioned in code, how is Mesilla going to maintain that road if there is no access to it other than going through private property. There are two variance processes. One of the most common variance processes falls under title 18 in which it regulates land use. Title 17, under subdivisions also has a variance process specifically for subdivisions and it is approved by PZHAC not Board of Adjustments. Was confirmed with attorney.

Commissioner Mulvihill stated she didn't realize the subdivision had to have a variance. Why does Mr. Bernal have to have a variance. Why doesn't it go to Board of Adjustments first and then us?

Mr. Salazar stated that is on Title 18 variance requirement, not Title 17.

Commissioner Mulvihill asked if the variance is asking to use the private road.

Mr. Salazar – no the variance requested is so he doesn't have to pave the road and sidewalks. The road is going to be a gravel road meeting fire code standards.

Commissioner Lucero so since variances is being discussed she referred to 18.85.010 hardship necessary for consideration. The Board of Adjustments upon its own motion may consider, Also stating explanation on unnecessary hardship can't be cause by land owner.

Is the reason he wants to use the back road is because it shortens to be able to subdivide the three lots which he does have access to. Is that why he is going with the alternate subdivision? None of those reasons qualify for a variance. Asked Mr. Salazar if we have a Board of Adjustments.

Mr. Salazar stated yes and he is unaware at that time whom they were since it was over a year ago since a meeting was held. Because of the new year, it is possible we have new ones. The board consists of one BOT, one PZHAC, and one resident.

Commissioner Lucero ok so why wasn't any of them involved with the case.

Mr. Salazar stated, again those regulations are for land use not subdivision. Title 17 has its own variance process and it does not require a hardship. The purpose for the variance is due to having private property on both sides of the subdivision.

Commissioner Lucero stated on title 17 it requires the property owner should be supplying an in and out.

Chair Walkinshaw – he has an in and out. Which is the community road approved in 1977.

Vice Chair Gallegos	yes
Commissioner Miller	yes
Commissioner Alvillar	yes
Commissioner Mulvihill	no

3 – 1 Vote, Approved

Chair Walkinshaw stated there has been issues with the governing board in the past when we voted no and did not give a reason.

Mr. Salazar – because we are a recommending board, the Board of Trustees need to understand why it was voted negatively. So, if we could please give a reason.

Commissioner Mulvihill – voted no because it said summary subdivision and we are talking about regular subdivision.

- b. PZHAC CASE #062038 – 2101 Calle del Norte,, submitted by Mr. Juan D Caro. Requesting approval for an addition to his primary residence. ZONE: Historical Residential (HR).**

1st motion to approve made by Vice Chair Gallegos

2nd motion to approve by Commissioner Miller

Vice Chair Gallegos	yes
Commissioner Miller	yes
Commissioner Alvillar	yes
Commissioner Mulvihill	yes

4 – 0 Vote, Approved unanimously

Chair Walkinshaw requested the signatures from the review committee need to be on the application itself and not in the back. Mr. Salaza agreed.

7. DISCUSSION

- a. **PERIMETER WALL HEIGHT** on properties adjacent to University Project. Propose an amendment to our ordinance to allow these properties (from Bowman to McDowell) to increase wall height to alleviate concern with privacy & safety.

Postponed for our next scheduled meeting on the 18th.

- b. **ZONING MAP** – refine zoning map to confirm existing zones according to our last comprehensive plan (2017) and define boundaries on each zone.

Postponed for our next meeting on the 18th.

1st motion to approve made by Commissioner Mulvihill to postpone Item #7a & #7b.

2nd motion to approve by Commissioner Alvillar

Vice Chair Gallegos	yes
Commissioner Miller	yes
Commissioner Alvillar	yes
Commissioner Mulvihill	yes

4 – 0 Vote, Approved unanimously

8. COMMISSIONERS / STAFF COMMENTS

Commissioner Lucero – [inaudible]

Commissioner Paz – [inaudible]

9. ADJOURNMENT

1st motion to approve made by Commissioner Miller

2nd motion to approve by Commissioner Alvillar

Vice Chair Gallegos	yes
Commissioner Miller	yes
Commissioner Alvillar	yes
Commissioner Mulvihill	yes

4 – 0 Vote, Approved unanimously



Eric Gallegos
 Eric Gallegos – PZHAC Vice - Chairman

ATTEST:

Gloria Maya
 Gloria Maya – Town Clerk/Treasurer